

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

Editor's Note: The following three Notices of Final Rulemaking were exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1391.)

[R13-78]

PREAMBLE

- | | |
|--|---------------------------------|
| <u>1. Articles, Parts, or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-16-205 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 32-1403(A)(9)
Implementing statute: A.R.S. §§ 32-1422(A)(8), 32-1425(A), 32-1426(A), 32-1429(A)(5), 32-1430(A), 32-1432(B)(2), 32-1432.01(C), 32-1432.02(A), 32-1432.03(2), 32-1436, 32-1491(A)(4)
- 3. The effective date of the rule:**
July 6, 2013
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
Notice of Rulemaking Docket Opening: 17 A.A.R. 2306, November 11, 2011
Notice of Proposed Rulemaking: 18 A.A.R. 2592, October 19, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Lisa Wynn, Executive Director
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Scottsdale, AZ 85258
Telephone: (480) 551-2791
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- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
A.R.S. § 32-1436 requires the Board to establish nonrefundable fees at its annual fall meeting. The Board is making rules to codify the fees that are currently on its website at www.azmd.gov and being charged to applicants and licensees. The Board has been placing its fees on its website since approximately 2001 and 2006. The renewal fee has been on the Board's website since approximately July 2003. The Board raised its fees to coincide with increased operating costs at the time.

The Board is submitting this rulemaking pursuant to Governor Brewer's approval of an exception request on June 13, 2011.
- 7. A reference to any study relevant to the rule that the agency reviewed and either to relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Board did not review or rely on any study.

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8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

Annual cost/revenue changes are designated as minimal when less than \$5,000, moderate when between \$5,000 and \$10,000, and substantial when greater than \$10,000.

Fees charged by the Board affect the Board, an applicant, a licensed physician, and a patient. The total amount of fees affect the Board because the Board operates on the amount of fees collected subject to appropriation.

The Board will incur minimal costs for the rulemaking. The rule will have no cost impact on any other state agency other than the Secretary of State's Office and the Governor's Regulatory Review Council, both of which incur some minimal costs to process and publish the rules.

Because A.R.S. § 32-1436 requires the Board to establish its fees annually at its fall meeting, it has always published its fees on the Board's website. The Board is codifying the fees that have been on its website since approximately 2001 and 2006. The renewal fee has been on the Board's website since approximately July 2003. Most of the fees are lower than their statutory limits stated in A.R.S. § 32-1436, with a few of the fees being at the statutory limit. The \$500 cost for the application fee, initial license issuance fee, and renewal fee are minimal to an applicant and licensee and are \$200 below the statutory limit of \$700. This is a \$50 increase for the license issuance and renewal fees as stated in rule. The Board increased the reactivation fee to the statutory limit of \$500, an increase of \$50. The Board is still charging \$200 for the initial registration to dispense drugs, but has increased the annual renewal registration fee to \$150, which is \$50 below the statutory limit. The annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program fee was increased by \$25 to \$50 and the annual teaching fee was also increased from \$225 to \$250. The locum tenens registration was changed from \$200 to \$350. The license verification fee was changed from \$5.00 to \$10.00. All of these fees are minimal to an applicant and licensee. The other fees have not been changed and are also minimal.

The Board, applicants, licensees, and businesses benefit from rules that contain the most accurate fees charged by the Board. Consumers of medical services benefit should not experience any increase in costs.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Minor, non-substantive were made between the proposed and final rulemaking at the request of GRRC staff.

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Board did not receive any comments about the rulemaking.

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Yes, the Board is charging a fee for applications and for issuing a license, which falls within the definition of general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of the rules.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The Board did not receive such an analysis from any person.

13. A list of any incorporation by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

ARTICLE 2. LICENSURE

Section

R4-16-205. ~~Miscellaneous Fees~~

ARTICLE 2. LICENSURE

R4-16-205. ~~Miscellaneous Fees~~

The Board charges the following fees, ~~are established~~ which are nonrefundable unless A.R.S. § 41-1077 applies:

1. Application to practice ~~allopathic medicine~~ for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;
2. ~~For issuing~~ Issuance of an initial license, ~~\$450~~ \$500, which may be prorated from date of issuance to date of license renewal;
3. Two-year license renewal, ~~\$450~~ \$500;
4. Reactivation of an inactive license, ~~\$450~~ \$500, which may be prorated from date of reactivation to date of license renewal;
5. ~~Application for a temporary license to practice medicine~~, \$200;
- ~~6-5.~~ Locum tenens registration, ~~\$200~~ \$350;
- ~~7-6.~~ Duplicate license, \$50;
- ~~8-7.~~ Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, ~~\$25~~ \$50;
- ~~9-8.~~ Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, ~~\$225~~ \$250;
- ~~10-9.~~ Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
- ~~11-10.~~ Copy of the annual allopathic medical directory, \$30;
- ~~12-11.~~ Initial registration to dispense drugs and devices, \$200;
- ~~13-12.~~ Annual renewal to dispense drugs and devices, ~~\$100~~ \$150;
- ~~14-13.~~ Penalty fee for late renewal of an active license, \$350;
- ~~15-14.~~ Verifying a license, ~~\$5~~ \$10 per request;
- ~~16.~~ Copies of the minutes of all Board meetings during a fiscal year, \$15 per meeting;
- ~~17-15.~~ Copies of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page; and
- ~~18-16.~~ Sale of computerized tapes or diskettes not requiring programming, \$100 Data disk containing public information about licensed physicians, \$100; and;
- ~~19.~~ A wallet card is provided free of charge at time of licensure, additional wallet cards, \$10.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS MEDICAL BOARD

[R13-79]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-18-101	Amend
R4-18-801	Amend
R4-18-802	Amend
R4-18-901	New Section
R4-18-902	New Section
R4-18-903	New Section
R4-18-904	New Section

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2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statutes (specific):

Authorizing statute: A.R.S. § 32-1504(A)(1)

Implementing statutes: A.R.S. §§ 32-1501(15), A.R.S. 32-1501(31)(y), A.R.S. 32-1501(31)(z), A.R.S. 32-1501(31)(dd), 32-1501(31)(xx), 32-1504(A)(7), 32-1504(A)(8), 32-1526, 32-1527, 32-1530, 32-1581

3. The effective date of the rule:

July 6, 2013

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the of the final rulemaking package:

Notice of Rulemaking Docket Opening: 18 A.A.R. 1869, August 3, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 1821, August 3, 2012

Notice of Supplemental Proposed Rulemaking: 18 A.A.R. 3253, December 14, 2012

5. The agency's contact person who can answer questions about the rulemaking:

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Name: Kathleen Phillips, Deputy Director

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Phoenix, AZ 85007

Telephone: (602) 542-8204

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6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The Board is amending its definitions in R4-18-101 for clarification purposes and to eliminate the definitions that are already provided in statute.

The Board is amending R4-18-802 by including the requirements found in the definition of informed consent rather than keep the requirements in the definition in R4-18-101 and adding a provision that specifies when the Board considers a procedure, medication, or device experimental. In R4-18-801(2), the Board changed "or" to "and" as a term of inclusion rather than exclusion to make all of the provisions apply.

A.R.S. § 32-1581(A) requires a naturopathic physician to obtain Board certification before dispensing a natural substance, drug, or device. A.R.S. § 32-1504(A)(7) requires the Board to adopt rules relating to the dispensing of natural substances, drugs, and devices. A drug is defined in A.R.S. § 32-1501(15) to include the intravenous administration of minerals and nutrients. A.R.S. § 32-1581(G) requires the Board to adopt rules for the safe administration of minerals, including Board certification before a physician prescribes or dispenses. A.R.S. § 32-1504(A)(8) requires the Board to adopt rules for the safe administration of intravenous nutrients and to identify and exclude substances that do not meet the criteria of nutrients suitable for intravenous administration. Because of these statutes the Board is making a new Article 9 that contains rules for dispensing natural substances, drugs, and devices. These rules include definitions and requirements for qualifications, application for a dispensing certificate, renewal of a certificate, and standards for dispensing. The Board is submitting this rulemaking to the Secretary of State's office in accordance with the exemption authorization under item 4 of Executive Order 2012-03, State Regulatory Rulemaking Moratorium.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board did not review or rely on any study.

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8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

When used in the economic impact statement summary, annual cost/revenue are designated as minimal when less than \$5,000, moderate when between \$5,000 and \$10,000, and substantial when greater than \$10,000.

The Board will incur minimal expense to write the rules and enforce their requirements.

The elimination of the definitions in R4-18-101 should not result in any costs to a naturopathic physician, medical student, or medical assistant because most of the definitions are already in A.R.S. § 32-1501. The same is true for adding clarifying definitions and moving the informed consent requirements to R4-18-801.

A naturopathic physician should not incur costs as a result of the clarifying changes in R4-18-801, which state when the Board considers a procedure, medication, or device experimental and requires all of the requirements to be present.

The requirements in R4-18-902 and R4-18-903 should not increase costs to applicants or naturopathic physicians because they are statutorily required to be certified to dispense natural substances, drugs, or devices. As a result, the rules are being made to codify the Board's current requirements for approvals to dispense. The costs for an application and the application fee are minimal. Most individuals meet the qualification requirements in R4-18-902 when they apply. However, the Board receives approximately two or three applications annually from individuals who do not meet the requirements in R4-18-902 and therefore must take a course. The course may be provided by any of the organizations in R4-18-902 and also may be available on-line. The costs for obtaining the course should be minimal, with the on-line course being offered free of charge. The application costs as stated in R4-18-903 should also be minimal to an applicant or naturopathic physician. In order to determine whether it is safe to prescribe or dispense a natural substance, drug, or device, it is standard practice for naturopathic physicians to perform physical examinations and laboratory tests as necessary. These requirements should not increase costs to naturopathic physicians.

Naturopathic physicians often form business groups of up to three persons. These businesses should not realize any increase in costs from the rules.

Consumers should not be expected to pay more for the physical examinations and laboratory tests conducted by the physicians for health and safety reasons.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

The Board made minor changes suggested by Council staff and the following clarifying changes to the rules, which are not substantial:

In R4-18-101(10), added "is approved according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection to clarify how an institutional review board is approved.

In R4-18-101(11), deleted "in an institution, certified by the Board" and added the reference to A.R.S. § 32-1561, which describes the statutory requirements for an internship program.

In R4-18-101(13), added the definition of medical student to clarify that the term is synonymous with naturopathic medical student, the term defined in statute.

In R4-18-901:

In (1)(a), added "to dispense" after "certificate".

In (1)(b), added "to dispense" after "certificate".

In (6), changed from "Hour" means 50 minutes or more of participation to "Hour" means 50 to 60 minutes of participation to set the upper limit.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Board did not receive any comments.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Board issues a license or certificate, which fall within the definition of general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of the rule.

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- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The Board did not receive such an analysis from any person.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

There is no incorporation by reference document.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking package:

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS MEDICAL BOARD

ARTICLE 1. GENERAL PROVISIONS

Section

R4-18-101. Definitions

ARTICLE 8. EXPERIMENTAL MEDICINE

Section

R4-18-801. Experimental Medicine

R4-18-802. Informed Consent and Duty to Follow Protocols

ARTICLE 9. CERTIFICATE TO DISPENSE

Section

R4-18-901. Definitions

R4-18-902. Qualifications for a Certificate to Dispense

R4-18-903. Application for a Certificate to Dispense; Renewal

R4-18-904. Dispensing; Intravenous Nutrients

ARTICLE 1. GENERAL PROVISIONS

R4-18-101. Definitions

In addition to the definitions in A.R.S. §§ 32-1501 through 32-1581, the following definitions apply to this Chapter unless otherwise specified:

1. "Administrative completeness review" means the Board's process for determining that an applicant has provided, or caused to be provided, all of the application packet information and documentation required by statute or rule for an application for a license or a certificate.
2. "Applicant" means a person requesting from the Board an initial, temporary, or renewal license or certificate.
~~"Application" or "application packet" means the forms, documents, and information the Board requires to be submitted by an applicant or on behalf of an applicant.~~
3. "Approved Specialty College or Program" means any postdoctoral training program that awards a medical specialist certificate and is approved by one of the following:
 - a. The Council on Naturopathic Medical Education,
 - b. The American Association of Naturopathic Physicians, or
 - c. The Arizona Naturopathic Medical Association.
4. "Chief medical officer" means a physician who is responsible for a clinical, preceptorship, internship, or postdoctoral training program's compliance with state and federal laws, rules, and regulations.
~~"Clinical training program" means a clinical training program operated in conjunction with an approved school of naturopathic medicine.~~
5. "Continuing medical education" means courses, seminars, lectures, programs, conferences, and workshops related to subjects listed in A.R.S. § 32-1525(B), that are offered or sanctioned by one of the organizations referenced in R4-18-205 (B).
6. "Device" means the same as in A.R.S. § 32-1581(H)(1).
7. "Endorsement" means the procedure for granting a license in this state to an applicant who is currently licensed to practice naturopathic medicine by another state, district, or territory of the United States or by a foreign country that

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- requires a written examination substantially equivalent to the written examination provided for in A.R.S. § 32-1525.
8. "Facility" means a health care institution as defined in A.R.S. § 36-401, office or clinic maintained by a health care institution or by an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29, office or public health clinic maintained by a state or county, office or clinic operated by a qualifying community health center under A.R.S. § 36-2907.06, or an office or clinic operated by a corporation, association, partnership, or company authorized to do business in Arizona under A.R.S. Title 10.
 9. "Informed consent" means a document, signed by a patient or the patient's legal guardian, ~~that verifies that the patient or legal guardian understands the type of treatment the patient is to receive, and whether the clinician is a physician, preceptee, or an intern who is treating the patient. If an experimental or investigational protocol is to be followed, the informed consent form shall clearly state that the patient understands the procedures to be carried out, the risks and benefits of the procedure, medication or device to be used, that the patient can withdraw at any time, that the patient is voluntarily complying, and that the protocol meets the requirements of the institutional review board that approves the protocol.~~ which contains the information in R4-18-802(A)(1), (A)(2), and (A)(3).
 10. "Institutional review board" means a group of persons that is approved according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection, which reviews investigational or experimental protocols and approves its use on animals or humans within an institution for the purposes of protecting the subjects of the investigational or experimental protocol from undue harm and assures that the research and its review is carried out according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection.
 11. "Internship" means clinical and didactic training by a doctor of naturopathic medicine certified by the Board; ~~in an institution, certified by the Board according to A.R.S. § 32-1561.~~
 12. "License" means a document issued by the Board that ~~entitles~~ authorizes the individual to whom it is issued to practice naturopathic medicine.
 13. "Medical student" means naturopathic medical student defined in A.R.S. § 32-1501(24).
 14. "Medication" means the same as drug defined in A.R.S. § 32-1501(15) or natural substance defined in A.R.S. § 32-1501(23).
 15. "National board" means any of the following:
 - a. The Federation of State Medical Licensing Boards,
 - b. The National Board of Chiropractic Examiners,
 - c. The National Board of Medical Examiners,
 - d. The National Board of Osteopathic Examiners, or
 - e. The North American Board of Naturopathic Examiners.
- ~~"Preceptorship" means clinical training of not more than 24 months duration, by a person who holds a degree of doctor of naturopathic medicine, and is certified by the Board for preceptorship training.~~
16. "Procedure" means an activity directed at or performed on an individual for improving health, treating disease or injury, or making a diagnosis.
 17. "Protocol" means an explicit detailed plan of an experimental medical procedure or test that is approved by an institutional review board.
 18. "Resident physician in training" means a person who holds a degree of doctor of naturopathic medicine and is certified by the Board to diagnose and treat patients under supervision in an internship, preceptorship, or a post doctoral training program.
 19. "Substantive review" means the Board's process for determining whether an applicant for licensure, certification, or approval meets the requirements of A.R.S. Title 32, Chapter 14 and this Chapter.
- ~~"Supervise" means to be physically present and within sight or sound of a medical assistant, medical student, or an unlicensed resident physician in training, who is providing naturopathic medical care to a patient.~~
- ~~"Supervision" means a supervisor assumes legal responsibility and has oversight of activities relating to the diagnosis and treatment of a patient and the acquiring, preparing, and dispensing of devices and natural substances to a patient by a medical assistant, nurse, medical student, or a preceptee.~~
- ~~"Supervisor" means an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29 who supervises a medical student or a preceptee, or a person licensed under A.R.S. Title 32, Chapter 14 who supervises a medical assistant or a nurse.~~

ARTICLE 8. EXPERIMENTAL MEDICINE

R4-18-801. Experimental Medicine

A procedure, medication, or device is experimental if:

1. An Institutional ~~Review~~ review Board ~~board~~ exists for a particular procedure, medication, or device; ~~or~~
2. The procedure, medication, or device is not generally considered to be within the accepted practice standards for the naturopathic profession; and
3. The procedure, medication, or device is not part of the curriculum at an approved school of naturopathic medicine or approved postdoctoral training.

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R4-18-802. Informed Consent and Duty to Follow Protocols

- A. A physician, medical student engaged in an approved clinical training program, preceptee, or intern who conducts research involving an experimental procedure, medication, or device, shall ensure that all research subjects give informed consent to participate, which states:
1. Whether a physician, preceptee, or an intern is treating the patient;
 2. That the patient or legal guardian of the patient understands:
 - a. The type of treatment the patient is to receive;
 - b. Each procedure that will be provided to the patient;
 - c. The risks and benefits of each procedure, medication, or device to be provided;
 - d. That the patient can withdraw at any time; and
 - e. That the patient is voluntarily participating; and
 3. The physician, medical student engaged in the approved clinical training program, preceptee, or intern has established a protocol as required by subsection (B) that meets the requirements of the institutional review board that approved the protocol.
- B. A physician, medical student engaged in an approved clinical training program, preceptee, or intern, ~~that~~ who conducts research on humans involving an experimental procedure, medication, or device shall have a protocol for that research approved by an ~~Institutional Review Board~~ institutional review board.

ARTICLE 9. CERTIFICATE TO DISPENSE

R4-18-901. Definitions

The following definitions apply in this Article:

1. "Applicant" means:
 - a. An individual applying for a license and a certificate to dispense; or
 - b. A licensee requesting a certificate to dispense only.
2. "Auscultation" means the act of listening to sounds within the human body either directly or through the use of a stethoscope or other means.
3. "Certificate to dispense" means an approval granted by the Board to dispense a natural substance, drug, or device.
4. "Dispense" means the same as in A.R.S. § 32-1581(H).
5. "Drug" means the same as in A.R.S. § 32-1501(15).
6. "Hour" means 50 to 60 minutes of participation.
7. "Medical record" means the same as in A.R.S. § 12-2291.
8. "Nutrient" means the same as in A.R.S. § 32-1501(15)(a)(iii).
9. "Physical examination" means an evaluation of the health of an individual's body using inspection, palpation, percussion, and auscultation to determine cause of illness or disease.

R4-18-902. Qualifications for a Certificate to Dispense

- A.** To qualify for a certificate to dispense, an applicant shall have completed before the submission date of the application, Board approved training in the safe administration of natural substances, drugs, or devices.
- B.** The Board approves documentation of the following as evidence of completion of Board approved training in the safe administration of natural substances, drugs, or devices:
1. Graduation from an approved school of naturopathic medicine after January 1, 2005 as referenced in A.R.S. § 32-1525(B)(4); or
 2. Completion of a 60 hour or more pharmacological course on natural substances, drugs, or devices that is offered, approved, or recognized by one of the organizations in R4-18-205(B)(1) or R4-18-205(B)(2).
- C.** If an applicant intends to administer a natural substance or drug intravenously, the Board approved training completed by the applicant shall include administration of a natural substance or drug by intravenous means.

R4-18-903. Application for a Certificate to Dispense; Renewal

- A.** An applicant for a certificate to dispense shall submit:
1. An application to the Board that contains:
 - a. The applicant's:
 - i. Full name;
 - ii. Naturopathic license number, if known; and
 - iii. Social Security number;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant holds a drug enforcement number issued by the United States Drug Enforcement Administration, and if so, the drug enforcement number;
 - d. A statement of whether the applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, and if so, an explanation that includes:

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- i. The name and address of the federal or state agency or court having jurisdiction over the matter; and
 - ii. The disposition of the matter;
 - e. A statement, signed by the applicant, that the applicant agrees to conform to all federal and state statutes, regulations, and rules; and
 - f. The date the application is submitted; and
2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.
- B.** An applicant for a naturopathic license may request a certificate to dispense as part of a naturopathic license application. When this request is made, approval of the naturopathic license by the Board includes approval of the certificate to dispense.
- C.** A certificate holder shall renew a certificate to dispense on or before July 1 of each year by submitting:
 1. An application to the Board that contains:
 - a. The applicant's full name;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant has had the authority to prescribe, dispense, or administer a natural substance, drug, device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, during the one year period immediately preceding the renewal date and if so, an explanation that includes:
 - i. The name and address of the federal or state agency or court having jurisdiction over the matter; and
 - ii. The disposition of the matter; and
 - d. A statement, signed and dated by the applicant, verifying the information on the application is true and correct and the applicant is the licensee named on the application; and
 2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.
- D.** The Board shall grant or deny the certificate to dispense or renewal of certificate to dispense according to the time-frames in 4 A.A.C. 18, Article 7, Table 1.

R4-18-904. Dispensing: Intravenous Nutrients

- A.** To prevent toxicity due to the excessive intake of a natural substance, drug, or device, before dispensing the natural substance, drug, or device to an individual, a certified physician shall:
 1. Conduct a physical examination of the individual.
 2. Conduct laboratory tests as necessary that determine the potential for toxicity of the individual, and
 3. Document the results of the physical examination and laboratory tests in the individual's medical record.
- B.** For the purposes of A.R.S. § 32-1504(A)(8), a substance is considered a nutrient not suitable for intravenous administration if it is:
 1. Not manufactured and supplied for intravenous use by a manufacturer registered with the United States Food and Drug Administration or compounded by a pharmacy licensed in Arizona, another state, or United States territory; or
 2. One of the following:
 - a. Silver protein, or any substance that contains silver;
 - b. Cesium chloride;
 - c. Hydrazine sulfate; or
 - d. Lipid replacement as used in total parenteral nutrition.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

[R13-74]

PREAMBLE

1. Articles, Parts and Sections Affected

R4-19-101
Table 1
R4-19-301
R4-19-302
R4-19-303
R4-19-304
R4-19-305
R4-19-306
R4-19-307
R4-19-308

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend

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R4-19-309	Amend
R4-19-310	Amend
R4-19-312	Amend
R4-19-313	New Section

2. Citations to the agency's statutory rulemaking authority to include the authorizing statutes (general) and the implementing statutes (specific):

Authorizing statutes: A.R.S. §§ 32-1606 (A)(1), (B)(4), (B)(5), (B)(9), (B)(13), (B)(17), (B)(21) and 32-1668

Implementing statutes: ARS §§32-1601(4), 32-1632, 32-1633, 32-1634, 32-1634.01, 32-1634.02, 32-1634.03, 32-1634.04, 32-1635, 32-1637, 32-1638, 32-1639, 32-1639.01, 32-1639.02, 32-1640, 32-1642, 32-1643, 32-3208, and 41-1080.

3. The effective date of the rules:

July 6, 2013

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 18 A.A.R. 1384, June 22, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 3174, December 7, 2012

5. The agency's contact person who can answer questions about the rulemaking:

Name: Pamela K. Randolph RN, MS
Associate Director of Education and Evidence-based Regulation

Address: 4747 N. 7th St. STE 200
Phoenix, AZ 85014

Telephone: 602-771-7803

Fax: 602-771-7888

E-mail: prandolph@azbn.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Arizona State Board of Nursing (Board) is amending Article 3 for the following reasons:

1. To improve consistency between the Board's rules and other state laws, specifically A.R.S. §§ 32-3208 and 41-1080 regarding mandatory reporting of criminal offenses and proof of legal presence.
2. To incorporate "Uniform Licensure Requirements" adopted by the Delegate Assembly of the National Council of State Boards of Nursing in August, 2011. These requirements establish consistency between nursing regulatory agencies across the country.
3. To implement the plan for rule revision approved by the Governor's Regulatory Review Council on April 6, 2010, as part of the 5 year rule review of Article 3.

Additionally the Board is amending Article 1 to incorporate additional definitions needed in Article 3. Specific changes to each Section are detailed below.

R4-19-101. Definitions

The Board is amending this Section by adding definitions of: "admission cohort", "eligibility for graduation", "substance use disorder" "CMA", "verified application" and "CES". The definition for "regionally accredited" is updated to allow for name changes in regional accrediting organizations.

Table 1.

This table is amended to delete the Certified Registered Nurse Anesthetist (CRNA) prescribing time-frames as statutory changes effective August 2, 2012, prohibit a CRNA from prescribing and add CRNA certification, temporary certification and renewal time-frames consistent with statutory changes. In addition, consistent with A.R.S. § 32-1650, time-frame requirements for Certified Medication Assistants were included. Other amendments were made to make time-frames for response to a deficiency notice consistent for similar license/certification types.

R4-19-301. Licensure by Examination

This rule is amended to clarify the requirements for licensure, including incorporating the criminal reporting requirements of A.R.S. § 32-3208 and the citizenship and alien status requirements of A.R.S. § 41-1080. Additionally the Board added the following uniform licensure requirements: self report of substance use disorder, current investigations and actions on licenses by other jurisdictions; participation in alternative to discipline programs; licensure of applicants eligible to graduate; role-delineation education for graduates of RN programs who want to obtain a practical nurse license; and self report of licensure status for internationally licensed nurses. The Board also amended the

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acceptable English language proficiency tests and revised the passing standards consistent with the research studies cited in item 7 below. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-302. Licensure by Endorsement

The Board amended this Section to incorporate a provision for licensure of applicants who do not meet the educational requirements of the Board, but are licensed in other jurisdictions and practicing safely. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-303. Requirements for Credential Evaluation Service (CES)

The Board amended this Section to remove the expiration provision for approval of a CES and add a requirement for a CES to report on the status of any international licenses held. Other amendments were made to improve clarity, conciseness or understandability.

R4-19-304. Temporary License

The Board amended this Section to clarify that the applicant does not need a current nursing license to qualify for a temporary license and clarified that the Board may issue a temporary license for the sole purpose of completing clinical requirements for a refresher or competency evaluation program for a nurse who does not meet the practice requirement. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-305. License Renewal

The Board amended this Section to include the criminal reporting requirements in A.R.S. § 32-3208 and uniform licensure requirements similar to amendments to R4-19-301. The Board added a provision for non-issuance of a renewal license until an investigation has been completed and the Board renders a decision if the applicant has a current or previous license in another jurisdiction that is or was revoked, surrendered, denied, suspended or placed on probation in another jurisdiction. Additionally, the Board amended this Section to allow for the collection of workforce data. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-306. Inactive License

The Board amended this Section to specify provisions for transferring a license to retirement status. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-307. Application for a Duplicate License

The Board clarified requirements for a duplicate license and incorporated electronic communication methods in this Section.

R4-19-308. Change of Name or Address

The Board amended this Section to incorporate electronic communication methods.

R4-19-309. School Nurse Certification Requirements

At the request of stakeholders the Board amended the requirements for school nurse certification to: eliminate award of certification without additional education, recognize national certification, and clarify the renewal requirements. This rule also amended application requirements to be consistent with the amendments to R4-19-301 and R4-19-305. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-310. Certified Registered Nurse

The Board is amending this Section to reflect the name change of a certifying agency. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-312. Practice Requirement

The Board amended this Section to clarify that international nursing practice meets the practice requirement and the circumstances under which care of a relative will meet the practice requirement. Other amendments are made to improve clarity, conciseness or understandability.

R4-19-313. Background

The Board added this New Section for the purpose of incorporating the standards in “Uniform Licensure Requirements” adopted by the Delegate Assembly of the National Council of State Boards of Nursing in August, 2011, regarding evaluations for applicants disclosing substance use disorder or criminal convictions of a sexual nature.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

There were three relevant studies that the agency reviewed and proposes to rely on in the Board’s justification for amendments to R4-19-301, specifically related to the passing standards on English language proficiency exams. The studies are:

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1. Woo, A., Dickison, P. & Jong, J. (June, 2010) Setting an English language proficiency passing standard for entry-level nursing practice using the Pearson Test of English Academic™. NCLEX Technical Brief. Available at National Council of State Boards of Nursing, 111 E. Wacker Drive, STE 2900, Chicago, IL www.ncsbn.org.
2. Wendt, A. & Woo, A. (August, 2009). A minimum English proficiency standard for Test of English as a Foreign Language™ (TOEFL®iBT). NCLEX Psychometric Research Brief. Available at National Council of State Boards of Nursing, 111 E. Wacker Drive, STE 2900, Chicago, IL www.ncsbn.org.
3. O'Neill, T., Buckendahl, C., Plake, B. & Taylor, L. (2007) Recommending a nursing-specific passing standard for the IELTS Examination. *Language Assessment Quarterly*. Available at: www.informaworld.com.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The preliminary summary of the economic, small business, and consumer impact:

The proposed amendments to Article 3 are expected to have a small to moderate economic impact on the Board and little to no impact on any regulated entity or small businesses. The Arizona State Board of Nursing (Board) licenses approximately 72,000 registered nurses and 11,000 practical nurses. Additionally there are approximately 302 certified school nurses, representing a decrease of 231 certified school nurses from the 533 certified in 2004. Adopting uniform licensure requirements and the requirements of A.R.S. § 32-3208 will impact the Board as more self reports of possible unprofessional conduct are expected. It is anticipated that triage time will increase to accommodate the expected increase in self reporting. There also may be increased investigations for failure to provide accurate information on an application if an applicant does not self-report. It is difficult to determine the exact impact of these amendments on Board staffing, and the Board is not requesting increases in personnel or operating costs at the present time. The amendments will also impact applicants with a criminal or substance use history and may delay licensure causing potential loss of income. Nurses who have revoked licenses in another jurisdiction will also experience economic losses due to inability to renew the license before an investigation is concluded. These amendments, however, will apply to very few nurses.

Applicants from international jurisdictions may experience negative economic consequences due to inability to meet the revised standards for English language proficiency. The amended standards are grounded in evidence and will ensure that internationally educated nurses licensed in Arizona have the necessary language proficiency to function at a minimally competent level. In 2011 the Board had 86 applications by exam from internationally educated nurses; approximately 25% of these applicants are from English speaking countries and would not be affected by English language proficiency requirements.

There are positive economic benefits to these amendments for school nurses who have national certification because their certification will meet both initial and renewal requirements for Arizona school nurse certification. The public will benefit from the added scrutiny of applicants and the increased clarity of the rules. Small businesses are not expected to be impacted unless they are seeking to hire a nurse with a criminal or substance use background or significant action on a license in another state. The Board believes that the benefits of these amendments outweigh the costs.

10. A description of any changes between the proposed rulemaking to include supplemental notice and the final rulemaking:

Technical and grammatical changes were made with the advice of the Secretary of State's office and Council staff.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Board held an oral proceeding on January 14, 2013, at 4:00 p.m. in the Board offices at 4747 N. 7th St. STE 200, Phoenix, AZ 85014. There were no persons in attendance other than Board staff. There were no written comments. The comment period closed on January 14, 2013 at 5:00 p.m.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following question:

There are no other matters prescribed by statute applicable to the Board or this specific class of rules.

a. Whether the rules requires a permit, whether a general permit is used and if not the reasons why a general permit is not used:

This rulemaking does not require a permit however this Article relates to the issuance of a license which can be considered a general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Federal law is not applicable to the subject of the rule.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

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No analysis was submitted

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

There is no material incorporated by reference.

14. Whether the rules were previously made, amended or repealed as emergency rules. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

None of the rules in this package were made, amended or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 1. DEFINITIONS AND TIME-FRAMES

Section

R4-19-101. Definitions

ARTICLE 3. LICENSURE

Section

R4-19-301. Licensure by Examination
R4-19-302. Licensure by Endorsement
R4-19-303. Requirements for Credential Evaluation Service (CES)
R4-19-304. Temporary License
R4-19-305. License Renewal
R4-19-306. Inactive License
R4-19-307. Application for a Duplicate License
R4-19-308. Change of Name or Address
R4-19-309. School Nurse Certification Requirements
R4-19-310. Certified Registered Nurse
R4-19-312. Practice Requirement
R4-19-313. Background

ARTICLE 1. DEFINITIONS AND TIME-FRAMES

R4-19-101. Definitions

In addition to the definitions in A.R.S. § 32-1601, in this Chapter:

“Abuse” means a misuse of power or betrayal of trust, respect, or intimacy by a nurse, nursing assistant, or applicant that causes or is likely to cause physical, mental, emotional, or financial harm to a client.

“Administer” means the direct application of a medication to the body of a patient by a nurse, whether by injection, inhalation, ingestion, or any other means.

“Admission cohort” means a group of students admitted at the same time to the same curriculum in a regulated nursing, nursing assistant, or advanced practice nursing program or the first clinical course in a regulated program.

“Applicant” means a person seeking licensure, certification, prescribing, or prescribing and dispensing privileges, or an entity seeking approval or re-approval, if applicable, of a:

CNS or RNP nursing program,
Credential evaluation service,
Nursing assistant training program,
Nursing program,
Nursing program change, or
Refresher program.

“Approved national nursing accrediting agency” means an organization recognized by the United States Department of Education as an accrediting agency for a nursing program.

“Assign” means a nurse designates nursing activities to be performed by another nurse that are consistent with the other nurse’s scope of practice.

“Certificate or diploma in practical nursing” means the document awarded to a graduate of an educational program in practical nursing.

“Client” means a recipient of care and may be an individual, family, group, or community.

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“CES” means credential evaluation service.

“Clinical instruction” means the guidance and supervision provided by a nursing program faculty member or NATCEP instructor while a student is providing client care.

“CMA” means certified medication assistant.

“CNA” means a certified nursing assistant, as defined in A.R.S. § 32-1601(49) (14).

“CNS” means clinical nurse specialist, as defined in A.R.S. § 32-1601(5)-(6).

“Collaborate” means to establish a relationship for consultation or referral with one or more licensed physicians on an as-needed basis. Supervision of the activities of a registered nurse practitioner by the collaborating physician is not required.

“Contact hour” means a unit of organized learning, which may be either clinical or didactic and is either 60 minutes in length or is otherwise defined by an accrediting agency recognized by the Board.

“Continuing education activity” means a course of study related to nursing practice that is awarded contact hours by an accrediting agency recognized by the Board, or academic credits in nursing or medicine by a regionally or nationally accredited college or university.

“CRNA” means a certified registered nurse anesthetist who provides anesthesia services under A.R.S. § 32-1661, as defined in A.R.S. § 32-1601 (5).

“DEA” means the federal Drug Enforcement Administration.

“Dispense” means to package, label, and deliver one or more doses of a prescription-only medication in a suitable container for subsequent use by a patient.

“Dual relationship” means a nurse or CNA simultaneously engages in both a professional and nonprofessional relationship with a patient or resident that is avoidable, non-incidental, and results in the patient being exploited financially, emotionally, or sexually.

“Eligibility for graduation” means that the applicant has successfully completed all program and institutional requirements for receiving a degree or diploma but is delayed in receiving the degree or diploma due to the graduation schedule of the institution.

“Endorsement” means the procedure for granting an Arizona nursing license to an applicant who is already licensed as a nurse in another state or territory of the United States and has passed an exam as required by A.R.S. §§ 32-1633 or 32-1638 or an Arizona nursing assistant certificate to an applicant who is already listed on a nurse aide register in another state or territory of the United States.

“Episodic nursing care” means nursing care at nonspecific intervals that is focused on the current needs of the individual.

“Failure to maintain professional boundaries” means any conduct or behavior of a nurse or CNA that, regardless of the nurse's or CNAs intention, is likely to lessen the benefit of care to a patient or resident or a patient's or resident's family or places the patient, resident or the patient's or resident's family at risk of being exploited financially, emotionally, or sexually;

“Full approval” means the status granted by the Board when a nursing program, after graduation of its first class, demonstrates the ability to provide and maintain a program in accordance with the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter.

“Good standing” means the license of a nurse, or the certificate of a nursing assistant, is current, and the nurse or nursing assistant is not presently subject to any disciplinary action, consent order, or settlement agreement.

“Independent nursing activities” means nursing care within an RN's scope of practice that does not require authorization from another health professional.

“Initial approval” means the permission, granted by the Board, to an entity to establish a nursing assistant training program, after the Board determines that the program meets the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter.

“Licensure by examination” means the granting of permission to practice nursing based on an individual's passing of a prescribed examination and meeting all other licensure requirements.

“LPN” means licensed practical nurse.

“NATCEP” means Nurse Aide Training and Competency Evaluation Program and includes both the nursing assistant training program and the required certification exam.

“NCLEX” means the National Council Licensure Examination.

“Nurse” means a licensed practical or registered nurse.

“Nursing diagnosis” means a clinical judgment, based on analysis of comprehensive assessment data, about a client's response to actual and potential health problems or life processes. Nursing diagnosis statements include the actual or potential problem, etiology or risk factors, and defining characteristics, if any.

“Nursing practice” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined health goals, and evaluating responses to care and treatment.

“Nursing process” means applying problem-solving techniques that require technical and scientific knowledge, good judgment, and decision-making skills to assess, plan, implement, and evaluate a plan of care.

“Nursing program” means a formal course of instruction designed to prepare its graduates for licensure as registered or practical nurses.

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“Nursing program administrator” means a nurse educator who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter and has the administrative responsibility and authority for the direction of a nursing program.

“Nursing program faculty member” means an individual working full or part time within a nursing program who is responsible for either developing, implementing, teaching, evaluating, or updating nursing knowledge, clinical skills, or curricula.

“Nursing-related activities or duties” means client care tasks for which education is provided by a basic nursing assistant training program.

“P & D” means prescribing and dispensing.

“Parent institution” means the educational institution in which a nursing program or nursing assistant training program is conducted.

“Patient” means an individual recipient of care.

“Pharmacology” means the science that deals with the study of drugs.

“Physician” means a person licensed under A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 17, or 29, or by a state medical board in the United States.

“Preceptor” means a registered nurse or other health professional who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter who instructs, supervises and evaluates a licensee, clinical nurse specialist, nurse practitioner or pre-licensure nursing student, for a defined period.

“Preceptorship” means a clinical learning experience by which a learner enrolled in a registered nursing program, nurse refresher program, clinical nurse specialist, or registered nurse practitioner program or as part of a Board order provides nursing care while assigned to a health professional who holds a license or certificate equivalent to or higher than the level of the learner's program or in the case of a nurse under Board order, meets the qualifications in the Board order.

“Prescribe” means to order a medication, medical device, or appliance for use by a patient.

“Proposal approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to proceed with an application for provisional approval to establish a pre-licensure nursing program in Arizona.

“Provisional approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to implement a pre-licensure nursing program in Arizona.

“Refresher program” means a formal course of instruction designed to provide a review and update of nursing theory and practice.

“Regionally accredited” means an educational institution ~~is accredited by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges~~ meets the standards and holds a current, valid certificate of accreditation from a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA) or a subsequent equivalent organization.

“Register” means a listing of Arizona certified nursing assistants maintained by the Board that includes the following about each nursing assistant:

Identifying demographic information;

Date placed on the register;

Date of initial and most recent certification, if applicable; and

Status of the nursing assistant certificate, including findings of abuse, neglect, or misappropriation of property made by the Arizona Department of Health Services, sanctions imposed by the United States Department of Health and Human Services, and disciplinary actions by the Board.

“Resident” means a patient who receives care in a long term care facility or other residential setting.

“RN” means registered nurse.

“RNP” means a registered nurse practitioner as defined in A.R.S. § 32-1601~~(45)~~ (19).

“SBTPE” means the State Board Test Pool Examination.

“School nurse” means a registered nurse who is certified under R4-19-309.

“Self-study” means a written self-evaluation conducted by a nursing program to assess the compliance of the program with the standards listed in ~~R4-19-201 through R4-19-206.~~ Article 2.

~~“School nurse” means a registered nurse who is certified under R4-19-309.~~

“Standards related to scope of practice” means the expected actions of any nurse who holds the identified level of licensure.

“Substance use disorder” means misuse, dependence or addiction to alcohol, illegal drugs or other substances.

“Supervision” means the direction and periodic consultation provided to an individual to whom a nursing task or patient care activity is delegated.

“Traineeship” means a clinical learning experience where a student enrolled in an approved nursing assistant training program provides care for residents in a long term care facility while working with a CNA employed by the facility under the supervision of an RN or LPN.

“Unlicensed assistive personnel” or “UAP” means a CNA or any other unlicensed person, regardless of title, to whom

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nursing tasks are delegated.

“Verified application” means an affidavit signed by the applicant attesting to the truthfulness and completeness of the application and includes an oath that applicant will conform to ethical professional standards and obey the laws and rules of the Board.

Table 1. Time-frames

Time-frames (in days)								
Type of License, Certificate, or Approval	Applicable Statute and Section	Board Overall Time-frame Without Investigation	Board Overall Time-frame With Investigation	Board Administrative Completeness Review Time-frame	Applicant Time to Respond to Deficiency Notice	Board Substantive Review Time-frame Without Investigation	Board Substantive Review Time-frame With Investigation	Applicant Time to Respond to Comprehensive Written Request
Nursing Program Proposal Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Provisional Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Full Approval or Re-approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-208, R4-19-210	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Change	A.R.S. § 32-1606(B)(1); R4-19-209	150	Not applicable	60	180	90	Not applicable	120
Refresher Program Approval or Re-approval	A.R.S. § 32-1606(B)(21); R4-19- 214 <u>216</u>	150	Not applicable	60	180	90	No applicable	120
CNS or RNP Nursing Program Approval or Re-approval	A.R.S. §§ 32-1606(B)(18), 32-1644; R4-19-503	150	Not applicable	60	180	90	Not applicable	120
Credential Evaluation Service Approval or Re-approval	A.R.S. §§ 32-1634.01(A)(1), 32-1634.02(A)(1), 32-1639.01(1), 32-1639.02(1); R4-19-303	150	Not applicable	60	180	90	Not applicable	120
Licensure by Exam	A.R.S. §§ 32-1606(B)(5), 32-1633, 32-1638, and R4-19-301	150	270	30	270	120	240	150
Licensure by Endorsement	A.R.S. §§ 32-1606(B)(5), 32-1634, 32-1639, and R4-19-302	150	270	30	270	120	240	150
Temporary License or Renewal	A.R.S. §§ 32-1605.01(B)(3), 32-1635, 32-1640; R4-19-304	60	90	30	60	30	60	90
License Renewal	A.R.S. §§ 32-1606(B)(5), 32-1642; R4-19-305	120	270	30	270	90	240	150

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School Nurse Certification or Renewal	A.R.S. §§ 32-1606(A)(7) and (B)(13), 32-1643(A)(8); R4-19-309	150	270	30	270	120	240	150
Re-issuance or Subsequent Issuance of License	A.R.S. § 32-1664(O); R4-19-404	150	270	30	270	120	240	150
Registered Nurse Practitioner Certification or Renewal	A.R.S. §§ 32-1601(45)(19), 32-1606(B)(21); R4-19-505, R4-19-506	150	270	30	180 270	120	240	150
RNP Prescribing and Dispensing Privilege	A.R.S. § 32-1601(45)(19); R4-19-511	150	270	30	270	120	240	150
CNS Certification or Renewal	A.R.S. §§ 32-1601(5)(6), 32-1606(B)(21); R4-19-505, R4-19-506	150	270	30	270	120	240	150
CRNA Prescribing Privilege Certification or Renewal	A.R.S. § 32-1601(13)(m); R4-19-515 <u>32-1634.03; R4-19-505, R4-19-506</u>	150	270	30	270	120	240	150
Temporary RNP, CRNA or CNS Certificate or Renewal	A.R.S. §§ 32-1635.01, <u>1634.03</u> ; R4-19-507	60	Not applicable	30	60	30	Not applicable	60
Nursing Assistant and Medication Assistant Training Programs Approval or Re-approval	A.R.S. §§ 32-1606(B)(11), <u>32-1650.01</u> ; R4-19-803, R4-19-804	120	Not applicable	30	180	90	Not applicable	120
Nursing Assistant and Medication Assistant Certification by Examination	A.R.S. §§ 32-1606(B)(11), 32-1647, <u>32-1650.02, 32-1650.03</u> ; R4-19-806	150	270	30	270	120	240	150
Nursing Assistant and Medication Assistant Certification by Endorsement	A.R.S. §§ 32-1606(B)(11), 32-1648, <u>32-1650.04</u> ; R4-19-807	150	270	30	270	120	240	150
Temporary CNA or CMA Certificate or Renewal	A.R.S. §§ 1646(A)(5), <u>32-1650</u> ; R4-19-808	60	Not applicable	30	60	30	Not applicable	60
Nursing and Medication Assistant Certificate Renewal	A.R.S. § 32-1606(B)(11); R4-19-809	120	270	30	270	90	240	150
Re-issuance or Subsequent Issuance of a Nursing Assistant Certificate	A.R.S. § 32-1664(O); R4-19-815	150	270	30	270	120	240	150

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ARTICLE 3. LICENSURE

R4-19-301. Licensure by Examination

A. An applicant for licensure by examination shall:

1. Submit ~~to the Board~~ a verified application to the Board on a form furnished by the Board that provides the following information about the applicant:
 - a. Full legal name and ~~any~~ all former names used by the applicant;
 - b. Mailing address, including declared primary state of residence, and telephone number;
 - c. Place and date of birth;
 - d. Ethnic category, ~~and~~ marital status and e-mail address, at the applicant's discretion;
 - e. Social Security number for an applicant who lives or works in the United States;
 - f. Post-secondary education, including the names and locations of all schools attended, graduation dates, and degrees received, if applicable;
 - g. Current employer or practice setting, including address, ~~telephone number~~, position, and dates of service, if employed or practicing in nursing or health care, ~~and previous employer or practice setting in nursing or health care, if any, if current employment is less than 960 hours within the past five years;~~
 - h. Information regarding the applicant's compliance with the practice or education requirements in R4-19-312;
 - ~~hi.~~ Any state, territory, or country in which the applicant holds or has held a registered or practical nursing license and the license number and status of the license, including original state of licensure, if applicable;
 - ~~i-j.~~ The date the applicant previously filed an application for licensure in Arizona, if applicable ~~or known;~~
 - ~~j-k.~~ Responses to questions regarding the applicant's background on the following subjects:
 - i. Current investigation or pending ~~Pending~~ disciplinary action by a nursing regulatory agency in the United States or its territories ~~or current investigation of the applicant's nursing license in another state or territory of the United States;~~
 - ii. Action taken on a nursing license by any other state;
 - ~~ii-iii.~~ Undesignated offenses, felony ~~Felony conviction charges, convictions and plea agreements, including deferred prosecution; or conviction of an undesignated or other similar offense, and~~
 - iv. Misdemeanor charges, convictions and plea agreements, including deferred prosecution, that are required to be reported under A.R. S. § 32-3208;
 - ~~iii-v.~~ Unprofessional conduct as defined in A.R.S. § 32-1601;
 - vi. Substance use disorder within the last 5 years;
 - vii. Current participation in an alternative to discipline program in any other state;
 - ~~k-l.~~ Detailed explanation ~~Explanation~~ and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
 - ~~l-m.~~ Certification in nursing including category, specialty, name of certifying body, date of certification, and expiration date.
2. Submit proof of United States citizenship or alien status as specified in A.R.S. § 41-1080;
- ~~2-3.~~ Submit a completed fingerprint card on a form provided by the Board or prints for the purpose of obtaining a criminal history report under A.R.S. § 32-1606 if the applicant has not submitted a fingerprint card or prints to the Board within the last two years; and
- ~~3-4.~~ Pay the applicable fees.

B. ~~If an applicant took the State Board Test Pool Examination (SBTPE), National Council Licensure Examination (NCLEX®) RN, or NCLEX-PN in any state or territory of the United States or in Canada, the applicant shall indicate on the application:~~

- ~~1. The date of the examination;~~
- ~~2. The location of the examination; and~~
- ~~3. The result of the examination.~~

C-B. If an applicant is a graduate of a pre-licensure nursing program in the United States that has been assigned a program code by the National Council of State Boards of Nursing during the period of the applicant's attendance, the applicant shall submit one of the following:

1. If the program is an Arizona-approved program, the transcript required in subsection (B) (2) or a statement signed by a nursing program administrator or designee verifying that:
 - a. The applicant graduated from or is eligible to graduate from a registered nursing program for a registered nurse applicant; or
 - b. The applicant ~~completed~~ graduated from or is eligible to graduate from a practical nursing program or graduated from a registered nursing program and completed Board-prescribed role delineation education for a practical nurse applicant; or
2. If the program is located either in Arizona or in another state or territory and meets educational standards that are substantially comparable to Board standards for educational programs under ~~R4-19-201 to R4-19-206~~ Article 2 when the applicant completed the program, an official transcript sent directly from one of the following as:

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- a. Evidence of graduation or eligibility for graduation from a diploma registered nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a registered nurse applicant.
- b. Evidence of ~~completion~~ graduation or eligibility for graduation of a practical nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a practical nurse applicant.

~~D.C.~~ If an applicant is a graduate of ~~a foreign~~ a pre-licensure international nursing program and lacks items required in subsection ~~(C)-(B)~~, the applicant shall comply with ~~subsections~~ subsection (A) ~~and (B)~~, submit ~~verification of the status of any nursing licenses held~~ a self report on the status of any international nursing license, and submit the following:

1. To demonstrate nursing program equivalency, one of the following:
 - a. ~~If the applicant graduated from an Canadian nursing program.~~ Evidence ~~evidence~~ of a passing score on the English language version of either the Canadian Nurses' Association Testing Service, ~~or~~ the Canadian Registered Nurse Examination, NCLEX or an equivalent examination;
 - b. A Certificate or Visa Screen Certificate issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS), or a report from CGFNS that indicates an applicant's program is substantially comparable to a U.S. program; or
 - c. A report from ~~another~~ any other credential evaluation service (CES) ~~that is accepted~~ approved by the Board. ~~The Board shall accept reports from a CES if acceptance is in the best interest of the public and the CES submits the information required by the Board under R4-19-303.~~
2. If a graduate of an international pre-licensure nursing program subsequently obtains a degree in nursing from an accredited U.S. nursing program, the requirement for a CES equivalency report may be waived by the Board, however the applicant is not eligible for a multi-state compact license.
- 2.3. If an applicant's pre-licensure nursing program provided classroom instruction, textbooks, or clinical experiences in a language other than English, a test of written, oral, and spoken English is required. Clinical experiences are deemed to have been provided ~~held~~ in a ~~foreign~~ language other than English if the principal or official language of the country or region where the ~~nursing program was held~~ clinical experience occurred is a language other than English, according to the United States Department of State. ~~An applicant shall ensure that one of the following is submitted to the Board directly from the testing or certifying agency:~~
4. An applicant who is required to demonstrate English language proficiency shall ensure that one of the following is submitted to the Board directly from the testing or certifying agency:
 - a. ~~Evidence of a minimum score of 540 on the paper and pencil version or 207 on the computer-based version of the Test of English as a Foreign Language (TOEFL) and a minimum score of 50 on the Test of Spoken English (TSE) or a minimum score of 76 84 with a minimum speaking score of 26 on the Internet-based TOEFL Test of English as a Foreign Language (TOEFL).~~
 - b. Evidence of a minimum score of 6.5 overall with minimum of 6.0 on each module of ~~on~~ the Academic Exam ~~and 7.0 on the spoken exam~~ of the International English Language Test Service (IELTS) Examination,
 - e. ~~Evidence of a minimum score of 725 on the Test of English in International Communication (TOEIC) exam and 50 on the TSE;~~
 - c. Evidence of a minimum score of 55 overall with a minimum score of 50 on each section of the Pearson Test of English Academic exam.
 - d. A Visa Screen Certificate from CGFNS,
 - e. A CGFNS Certificate ~~and a score of 50 on the TSE if the applicant did not take the Internet-based TOEFL or IELTS to meet certification requirements,~~
 - f. Evidence of a similar minimum score on another written and spoken English proficiency exam determined by the Board to be equivalent to the other exams in this subsection, or
 - g. Evidence of employment for a minimum of 960 hours within the past five years as a nurse in ~~another~~ a country or territory where the principal language is English, according to the United States Department of State.

~~E.D.~~ An applicant for a registered nurse license shall attain one of the following:

1. A passing score on the NCLEX-RN;
2. A score of 1600 on the NCLEX-RN, if the examination was taken before July 1988; or
3. A score of not less than 350 on each part of the SBTPE for registered nurses.

~~F.E.~~ An applicant for a practical nurse license shall attain:

1. A passing score on the NCLEX-PN;
2. A score of not less than 350 on the NCLEX-PN, if the examination was taken before October 1988; or
3. A score of not less than 350 on the SBTPE for practical nurses.

~~G.E.~~ The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by examination may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

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H-G. If the Board receives an application from a graduate of a nursing program and the program's approval was rescinded under ~~R4-19-211~~ R4-19-212 at any time during the applicant's nursing education, the Board shall ~~withdraw the application or~~ ensure that the applicant has completed a basic curriculum that is equivalent to that of a Board-approved nursing program and ~~either may do any of the following:~~

1. Grant licensure, if the program's approval was reinstated during the applicant's period of enrollment and the program provides evidence that the applicant completed a curriculum equivalent to that of a Board-approved nursing program; ~~or~~
2. By order, require successful completion of remedial education while enrolled in a Board approved nursing program which may include clinical experiences, before granting licensure: ~~The applicant shall obtain any required education while enrolled in a Board approved nursing program; or~~
3. Return or deny the application if the education was not equivalent and no remediation is possible.

R4-19-302. Licensure by Endorsement

A. An applicant for a license by endorsement shall submit all of the information required in R4-19-301(A).

B. In addition to the information required in subsection (A), an applicant for a license by endorsement shall:

1. Submit evidence of a passing examination score in accordance with:
 - a. R4-19-301(E) for a registered nurse applicant, or
 - b. R4-19-301(F) for a practical nurse applicant.
2. Submit ~~evidence of~~ the following:
 - a. ~~Previous Evidence of previous~~ or current license in another state or territory of the United States, ~~and~~
 - b. Information related to the nurse's practice for the purpose of collecting nursing workforce data, and
 - c. One of the following:
 - i. Completion of a pre-licensure nursing program that has been assigned a nursing program code by the National Council of State Boards of Nursing (NCSBN) at the time of program completion and the program meets educational standards substantially comparable to Board standards for educational programs in ~~R4-19-201 to R4-19-206~~ Article 2;
 - ii. If the applicant completed a pre-licensure nursing program that has been assigned a program code by the NCSBN but the program's approval was rescinded under A.R.S. § 32-1606 (B)(8) or removed from the list of approved programs under A.R.S. § 32-1644(D) or ~~R4-19-215~~ R4-19-212 during the applicant's enrollment in the program, proof of completion of the program ~~plus any and completion of any~~ remedial education required by the Board to mitigate the deficiencies in the applicant's initial nursing program;
 - iii. Completion of a nursing program that met the qualifications for a program code at the time of the applicant's graduation if before 1986 and the applicant was issued an initial license in another state or territory of the United States without being required to obtain additional education or experience; or If the applicant graduated from a U.S. nursing program before 1986 and the applicant was issued an initial license in another state or territory of the United States without being required to obtain additional education or experience, proof both of program completion and initial licensure without additional educational or experiential requirements;
 - iv. ~~For a graduate of a foreign~~ If the applicant graduated from an international nursing program, completion of a nursing program that meets proof of meeting the requirements in R4-19-301(D)(1). In addition, an applicant who graduated from a foreign nursing program shall satisfy the English proficiency requirements in R4-19-301(D)(2) if the applicant has not practiced nursing for a minimum of 960 hours within the past five years in another state, territory, or country where English is the primary language. v. If the Board finds that the documentation submitted by the applicant does not fulfill one of the requirements in (B)(2)(b)(i) through (iv), but the applicant has submitted verified employer evaluations demonstrating applicant's safe practice as a registered or practical nurse in another state for a minimum of 2 years full-time during the past 3 years and applicant otherwise meets licensure requirements, the Board may grant a single-state only license if the Board determines that licensure is in the best interest of the public.

C. The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by endorsement may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

R4-19-303. Requirements for Credential Evaluation Service

A. A ~~credential evaluation service CES that seeks seeking to be accepted~~ Board approval by the Board shall submit documentation to the Board ~~for initial acceptance and every three years demonstrating that it:~~

1. Provides a credential evaluation to determine comparability of registered nurse or practical nurse programs in other countries to nursing education in the United States;
2. Evaluates original source documents;
3. Has five or more years of experience in evaluating nursing educational programs or employs personnel that have this

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- experience;
4. Employs staff with expertise in evaluating nursing programs;
 5. Has access to resources pertinent to the field of nursing education and the evaluation of nursing programs;
 6. Issues a report on each applicant, and supplies the Board with a sample of such a report, regarding the comparability of the applicant's nursing educational program to nursing education in the United States that includes:
 - a. The current name of the applicant including any names formerly used by the applicant ~~former names~~;
 - b. Source and description of the documents evaluated;
 - c. Name and nature of the ~~institution~~ nursing education program, including status of the parent institution;
 - d. Dates applicant attended;
 - e. References consulted;
 - f. A seal or some other security measure; ~~and~~
 - g. Notification of any falsification or misrepresentation of documents by the applicant;
 - h. A report on licensure examination results for the applicant, if an exam was required for licensure in the international jurisdiction; and
 - i. The status of any international nursing licenses held by the applicant.
 7. Has a quality control program that includes at a minimum:
 - a. Standards regarding the use of original documents;
 - b. ~~Verifying~~ Verification of authenticity of documents and translations;
 - c. ~~Security of documents~~ Processes and procedures to prevent and detect fraud;
 - d. Policies for maintaining Confidentiality confidentiality of applicant educational records;
 - e. Responsiveness to applicants, including ensuring that include the criterion that reports are issued no later than eight weeks from the receipt of an applicant's documents; and
 - f. Tracking of and notification ~~of to~~ the Board of any trends in falsification or misrepresentation of documents;
 8. Follows or exceeds the standards of the National Association of Credentialing Services (NACES) or an equivalent organization ~~regarding staffing, and resources;~~
 9. ~~Will allow the Board to conduct a site survey at any time deemed necessary by the Board~~ Responds to Board requests for information in a timely and thorough manner; and
 10. Agrees to notify the Board before any changes in any of the above criteria.
- B.** ~~Depending on the severity of the violation, If a CES fails to comply with the provisions of subsection (A), the Board may revoke the rescind its approval of a credential evaluation service that fails to comply with the criteria established in this Section the CES.~~
- C.** The Board shall approve a credential evaluation service that meets the criteria established in this Section. ~~An A CES~~ applicant who is denied approval or whose approval is revoked may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

R4-19-304. Temporary License

- A.** Subject to subsection (B), the Board shall issue a temporary license if:
1. An applicant:
 - a. Is qualified under:
 - i. A.R.S. § 32-1635 and applies for a temporary registered nursing license, or is qualified under A.R.S. § 32-1640 and applies for a temporary practical nursing license; and
 - ii. R4-19-301 for applicants for licensure by examination, or is qualified under R4-19-302 for applicants for licensure by endorsement; and
 - b. Submits an application for a temporary license with the applicable fee required under A.R.S. § 32-1643(A)(9); and
 - c. Submits an application for a license by endorsement or examination with the applicable fee required under A.R.S. § 32-1643(A).
 2. An applicant is seeking a license by examination, meets the requirements of R4-19-312(C), and the Board receives a report from the Arizona Department of Public Safety (DPS), verifying that DPS has no criminal history record information, as defined in A.R.S. § 41-1701, relating to the applicant or that any criminal history reported has been reviewed by the executive director or the director's designee and determined not to pose a threat to public health, safety, or welfare; or
 3. An applicant is seeking a license by endorsement, meets the requirements in R4-19-312(B), and the applicant submits evidence that the applicant has a current license in good standing in another state or territory of the United States or, if no current license, a previous license in good standing that was not the subject of an investigation or pending discipline; or
 4. An applicant ~~has an expired, inactive, or lapsed license for five or more years, or who~~ does not meet the practice requirements in R4-19-312(B) or (C), but provides evidence that the applicant has applied for enrollment in a refresher ~~program~~ or other competency program approved by the Board, may practice nursing under a temporary

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license during the clinical portion of the program only.

- B. An applicant who has a criminal history, a history of disciplinary action by a regulatory agency, ~~or~~ a pending complaint before the Board, or answers affirmatively to any criminal background or disciplinary question in the application is not eligible for a temporary license or extension of a temporary license without Board approval.
- C. A temporary license is valid for a maximum of 12 months unless extended for good cause under subsection (D) of this Section.
- D. An applicant with a temporary license may apply for and the Board ~~or~~ the Executive Director or the Executive Director's designee may grant an extension of the temporary license period for good cause. Good cause means reasons beyond the control of the temporary licensee, such as unavoidable delays in obtaining information required for licensure.
- E. An applicant who receives a temporary license but does not meet the criteria for a regular license within the established period under subsections (C) and (D) is no longer eligible for a temporary license except for the purpose of completing a refresher or other competency program under subsection (A)(4) of this Section.

R4-19-305. License Renewal

- A. An applicant for renewal of a registered or practical nursing license shall:
 - 1. Submit ~~to the Board~~ a verified application to the Board obtained from on a form furnished by the Board that provides all of the following information about the applicant:
 - a. Full legal name, mailing address, telephone number and declared primary state of residence;
 - b. A listing of all states in which the applicant is currently licensed, or, since the last renewal, was previously licensed or has been denied licensure;
 - c. Marital status, ethnic category and e-mail address, at the applicant's discretion;
 - d. Information regarding qualifications, including:
 - i. Educational background;
 - ii. Employment status; ~~and~~
 - iii. Practice setting; ~~and~~
 - iv. Other information related to the nurse's practice for the purpose of collecting nursing workforce data.
 - e. Responses to questions regarding the applicant's background on the following subjects:
 - i. Criminal convictions for offenses involving drugs or alcohol since the time of last renewal;
 - ii. Undesignated offenses and felony Felony charges, convictions and plea agreements including deferred prosecution; or convictions for undesignated or other similar offenses since the time of last renewal; and
 - iii. Misdemeanor charges, convictions and plea agreements, including deferred prosecution, that are required to be reported under A.R. S. § 32-3208;
 - ~~iii-iv.~~ Unprofessional conduct as defined in A.R.S. § 32-1601 since the time of last renewal;
 - v. Substance use disorder within the last 5 years;
 - vi. Current participation in an alternative to discipline program in any other state; and
 - vii. Disciplinary action or investigation related to the applicant's nursing license by any other state nursing regulatory agency since the last renewal.
 - f. ~~A detailed explanation~~ Explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
 - g. Information ~~about~~ related to the applicant's current or most recent nursing practice setting under R4-19-312, including position, address, telephone number, and dates of practice; ~~If the period of practice in the current position is less than 960 hours within the last five years, the nurse shall provide, if available, documentation of 960 hours of practice in the last five years; and~~
 - h. Information regarding the applicant's compliance with the practice or education requirements in R4-19-312;
 - ~~h-i.~~ National certification Certification in nursing including category, specialty, name of certifying body, date of certification, certification number, and expiration date, if applicable; and for an applicant certified as a registered nurse practitioner or clinical nurse specialist the patient population of the certification; and
 - 2. Pay fees for renewal authorized by A.R.S. § 32-1643~~(6)~~ (A)(6); and
 - 3. Pay an additional fee for late renewal authorized by A.R.S. § 32-1643~~(7)~~ (A)(7) if the application for renewal is submitted after ~~August 1~~ May 1 of the year of renewal.
- B. A license ~~renewed after July 1, 2000~~ expires ~~November 2~~ on August 1 of the year of renewal indicated on the license.
- C. A licensee who fails to submit a renewal application before expiration of a license shall not practice nursing until the Board issues a renewal license.
- D. If the applicant holds a license or certificate that has been or is currently revoked, surrendered, denied, suspended or placed on probation in another jurisdiction, the applicant is not eligible to renew or reactivate a license until a review or investigation has been completed and a decision regarding eligibility for renewal or reactivation is made by the Board.
- ~~D-E.~~ The Board shall renew the license of any registered or practical nurse applicant who meets the criteria established in statute and this Article. An applicant who is denied renewal of a license may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

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R4-19-306. Inactive License

- A. A licensee in good standing may submit to the Board either as a separate written request document to the Board or as part of the renewal application, a request to transfer to inactive status, or retirement status under A.R.S. §§ 32-1606 (A) (10) and 32-1636 (E) or request a transfer to inactive status on a verified renewal application.
- B. The Board shall send a written notice to the licensee granting inactive or retirement status in writing or denying the request. A licensee denied a request for transfer to inactive or retirement status may request a hearing by filing a written request with the Board within 30 days of service of the denial of the request. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

R4-19-307. Application for a Duplicate License

- A. A licensee shall report a lost or stolen license to the Board, in writing or electronically through the Board website, within 30 days of the loss.
- B. A licensee requesting a duplicate license shall file an application on a form provided by the Board for a duplicate license and pay the applicable fee under A.R.S. § 32-1643(A) (14).

R4-19-308. Change of Name or Address

- A. A licensee or applicant shall notify the Board, in writing or electronically through the Board website, of any legal change in name within 30 days of the change, and submit a copy of the official document verifying the name change.
- B. A licensee or applicant shall notify the Board in writing or electronically through the Board website of any change in mailing address within 30 days.

R4-19-309. School Nurse Certification Requirements

- A. ~~Application requirements.~~ An applicant for initial school nurse certification shall:
 - 1. Hold a current license in good standing or multistate privilege to practice as a registered nurse in Arizona;
 - 2. ~~Submit to the Board~~ a verified application to the Board on a form furnished by the Board that provides the following information about the applicant:
 - a. Full legal name and any former names used by the applicant;
 - b. Mailing address and telephone number;
 - c. Registered nurse license number;
 - d. Social security number;
 - e. A description of the applicant's educational background, including the number and location of schools attended, the number of years attended, the date of graduation, the type of degree or certificate awarded, and if applicable, ~~a statement evidence~~ that the applicant has satisfied the ~~educational~~ requirements specified in subsection (B), (C), or (D), or (E);
 - f. Current employer, including address, telephone number, position type, dates of employment, and previous employer if the current employment is less than 12 months;
 - g. The name of any national certifying organization, specialty area, certification number and date of certification, if applicable; and for an applicant certified in as a nurse practitioner or clinical nurse specialist, the population of the certification;
 - h. Responses to questions regarding the applicant's background on the following subjects:
 - i. Current investigation or pending ~~Pending~~ disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation in another state or territory of the United States;
 - ii. Action taken on a nursing license by any other state;
 - ~~iii. Undesignated offenses, felony~~ Felony charges, conviction convictions and plea agreements, including deferred prosecution; or conviction of an undesignated or other similar offense; and
 - iv. Misdemeanor charges, convictions and plea agreements, including deferred prosecution, that are required to be reported under A.R.S. § 32-3208;
 - ~~iii-v.~~ Unprofessional conduct as defined in A.R.S. § 32-1601; and
 - vi. Substance use disorder within the last 5 years; and
 - vii. Current participation in an alternative to discipline program in any other state;
 - i. ~~Detailed explanation~~ Explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
 - j. E-mail address, ethnic category and marital status at the applicant's discretion.
 - 3. Pay applicable fees.

B. ~~Initial level~~ National certification.

In addition to the requirements of subsection (A), if an applicant provides evidence of current national certification as a school nurse or school nurse practitioner from an organization that meets the requirements of R4-19-310, the applicant qualifies for Arizona school nurse certification without meeting the requirements in subsection (C) for as long as the national certification remains current. The nurse shall provide evidence of continuing certification upon each renewal under subsection (D).

- 1. ~~Only applicants who have never been certified by the Board or the Department of Education are eligible for certification at the initial level. The Board does not require additional education, exceeding that required for licensure as a~~

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~~registered nurse for initial-level certification.~~

2. ~~Initial-level certification expires three years after the issue date on the certificate.~~

C. First-level Initial certification

1. ~~If the initial-level certificate of a school nurse has expired, or the school nurse was previously certified by the Department of Education and has never renewed, the nurse shall apply for first-level certification.~~ In addition to the requirements in subsection (A), the registered nurse applicant shall provide evidence of completion of all the following:
 - a. ~~Three semester hours in school nurse practice course work;~~
 - b. ~~Three semester hours in physical assessment of the school-aged child course work; unless the applicant provides evidence of current national certification from an organization that meets the requirements of R4-19-310 as a pediatric nurse practitioner, family nurse practitioner, or pediatric clinical nurse specialist; and~~
 - c. ~~Three semester hours in nursing care of the child with developmental disabilities special needs.~~
2. ~~A first-level An initial certificate expires three six years after the issue date on the certificate.~~

D. Second-level Renewal of certification.

1. ~~If the first-level initial certificate of a school nurse has expired and the applicant, has met the requirements in subsections (B) or (C) (1) of this Section, or the school nurse was previously certified by the Department of Education and has renewed once, the nurse shall apply for second-level certification. In addition to the requirements in subsection A, the registered nurse applicant is eligible to apply for re-certification. Within the application, the applicant shall provide evidence of completion of one of the following for renewal of certification:~~
 - a. ~~Current national certification as a school nurse as specified in subsection (B).~~
 - ~~ab.~~ A bachelor of science or graduate degree in nursing earned from an accredited institution as specified in R4-19-201 (A) within the last six years, or
 - b.c. Completion of the following educational requirements:
 - i. ~~Three semester hours in community health nursing theory or population-based care;~~
 - ii. ~~Three semester hours in management theory; and~~
 - iii. ~~Either three semester hours of upper division or graduate credit in nursing or health-related subjects from a regionally-accredited institution, as defined in R4-19-101, or 45 Evidence of completion of a minimum of 90 contact hours of continuing education activity, as defined in R4-19-101, related to school nursing practice and completed within the last 6 years.~~
2. ~~A second-level certificate Renewal of certification expires six years after the issue date on the certificate.~~

~~E.~~ Third-level certification:

1. ~~If the second-level certificate of a school nurse has expired or the school nurse was previously certified by the Department of Education and has renewed two or more times, the nurse shall apply for third-level certification on all subsequent renewals. In addition to the requirements in subsection (A), the registered nurse applicant shall provide evidence of all the following:~~
 - a. ~~Six semester hours of upper division or graduate credit in nursing or health-related subjects from a regionally accredited institution, as defined in R4-19-101; or~~
 - b. ~~Ninety contact hours of continuing education related to nursing practice.~~
2. ~~Third-level certification expires six years after the issue date on the certificate.~~

~~F.E.~~ The Board shall grant a school nurse certificate to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a school nurse certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the certificate. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

R4-19-310. Certified Registered Nurse

A registered nurse who has been certified by a nursing certification organization accredited by the ~~American Board of Nursing Specialties Accreditation Board for Specialty Nursing Certification~~, the National Commission for Certifying Agencies, or an equivalent accrediting agency as determined by the Board is deemed certified for the purposes of A.R.S. § 32-1601(4).

R4-19-312. Practice Requirement

- A. The Board shall not issue a license or renew the license of an applicant who does not meet the applicable requirements in subsections (B), (C), and (D).
- B. An applicant for licensure by endorsement or renewal shall either have complete completed a post-licensure nursing program or practice nursing at the applicable level of licensure for a minimum of 960 hours in the five years before the date on which the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
 1. Completed a post-licensure nursing education program at a school that is accredited under R4-19-201 (A) and obtained a degree, or an advanced practice certificate in nursing within the past five years; or
 2. Practiced for a minimum of 960 hours within the past five years where the nurse:
 - a. Worked for compensation or as a volunteer, as a licensed nurse in the United States or an international jurisdiction, and performed one or more acts under A.R.S. § 32-1601(13) (20) as an RN for a registered nurse if applying for RN renewal or licensure or A.R.S. § 32-1601(12) (16) as an LPN for a practical nurse if applying for LPN

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- renewal or licensure; or
- b. Held a position for compensation or as a volunteer in the United States or an international jurisdiction that required or recommended, in the job description, the level of licensure being sought or renewed; or
 - c. Engaged in clinical practice as part of an RN-BSN, masters, doctoral, or nurse practitioner RN-to-Bachelor of Science in Nursing, Masters, Doctoral or Nurse Practitioner program.
- C.** Care of family members does not meet the requirements of subsection (B)(2) unless the applicant submits evidence:
1. That the applicant is providing care as part of a medical foster home; or
 2. That the specific care provided by the applicant was:
 - a. Ordered by another health care provider who is authorized to prescribe and was responsible for the care of the patient.
 - b. The type of care would typically be authorized by a third-party payer, and
 - c. The care was documented and reviewed by the health care provider.
- ~~E.~~ D.** An applicant for licensure by either examination or endorsement, who is a graduate of a nursing program located in the U.S or its territories and does not meet the requirements of subsection (B), shall have ~~complete~~ completed the clinical portion of a pre-licensure nursing program within two years of the date of licensure. Examination applicants who were previously licensed in a ~~foreign~~ an international jurisdiction shall meet the applicable requirements of subsection (B) or ~~(D)~~ (E).
- ~~D.~~ E.** A licensee or applicant who fails to satisfy the requirements of subsection (B) or ~~(C)~~ (D), shall submit evidence of satisfactory completion of a Board-approved refresher or competency program that meets the requirements in R4-19-214. The Board may issue a temporary license stamped “for refresher course only” to any applicant who meets all requirements of this Article except subsection (B) or ~~(C)~~ (D) and provides evidence of applying for enrollment in a Board-approved refresher or competency program.

R4-19-313. Background

- A.** All applicants convicted of a sexual offense involving a minor or performing a sexual act against the will of another person shall be subject to a Board order under A.R.S. 32-1664 (F) and R4-19-405 unless the individual is precluded from licensure under A.R.S. §32-1606 (B)(17). If the evaluation identifies sexual behaviors of a predatory nature, the Board shall deny licensure or renewal of licensure.
- B.** All individuals reporting a substance use disorder in the last 5 years may be subject to a Board order for an evaluation under A.R.S. § 32-1664 (F) and R4-19-405 to determine safety to practice.
- C.** The Board may order the evaluation of other individuals on a case-by-case basis under A.R.S. 32-1664 (F) and R4-19-405.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION - HIGHWAYS

Editor’s Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1391.) The Governor’s Office authorized the notice to proceed through the rulemaking process on September 23, 2011.

[R13-80]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R17-3-901 | Amend |
| R17-3-902 | Amend |
| R17-3-903 | Repeal |
| R17-3-904 | Amend |
| R17-3-905 | Amend |
| R17-3-906 | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
 - Authorizing statute: A.R.S. § 28-366
 - Implementing statute: A.R.S. § 28-7311
 - 3. The effective date of the rules:**
 - July 6, 2013
 - 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the**

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final rulemaking package:

Notice of Rulemaking Docket Opening: 17 A.A.R. 2422, December 2, 2011

Notice of Proposed Rulemaking: 18 A.A.R. 81, January 13, 2012

Notice of Final Rulemaking: 18 A.A.R. 1263, June 1, 2012

Notice of Rulemaking Docket Opening: 18 A.A.R. 1239, May 25, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 3056, November 23, 2012

5. The agency's contact person who can answer questions about the rulemaking:

Name: Jane McVay

Address: Arizona Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., MD 140A
Phoenix, AZ 85007

Telephone: (602) 712-4279

Fax: (602) 712-3232

E-mail: jmcvay@azdot.gov

Web site: http://www.azdot.gov/Government_Relations/adotrules/

Please visit the ADOT web site to track progress of these rules and any other agency rulemaking matters.

6. An agency's justification and reason why rules should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

A.R.S. 28-7311 authorizes the Arizona Department of Transportation (ADOT) to establish an urban logo sign program and requires administrative rules to implement and operate the program. Logo signs are guide signs that provide motorists with information about businesses and services closely accessible to interstate and other state highways. Effective July 6, 2012, ADOT began administering the rural logo sign program, which was previously operated by a contractor. The existing rules prohibit placement of logo signs on many interstate and other state highways in the urbanized areas of the state. ADOT is amending the existing logo sign rules to remove the current urban logo sign placement restrictions. The proposed rules also make necessary operational changes in the urban logo sign program on interstate and other state highways in urbanized areas. Eligible businesses in the state, including food, gas, lodging, camping, 24-hour pharmacies, and attractions that meet certain criteria may enter into a lease agreement with ADOT to lease space on a logo sign. These businesses will pay a rate to ADOT according to logo sign rate schedules or a rate determined from competitive offers submitted to ADOT and formalized in a standard lease agreement. Under these rules, ADOT will determine the ranking order of competitive offers by responsible operators in urbanized areas with high logo sign demand and limited available signage, based on specific factors set forth in the rules. A.R.S. § 28-7311(D) requires the Department to deposit revenues generated from the urban logo sign programs, less program operating costs, into the State Highway Fund. The Department has authority to use these monies for transportation-related programs and projects that will benefit the motoring public.

This rulemaking includes the following provisions:

Revises definitions relevant to the rural and urban logo sign programs.

Provides that 24-hour pharmacies are primary businesses that are within three miles in any direction of an interchange on the interstate system and are not eligible as secondary businesses.

Provides that ADOT may implement an urban logo sign program on state highways in urbanized areas in the state and a rural logo sign program on state highways outside of urbanized areas. Interstate highways are included in both programs.

Allows ADOT to terminate program participation of a responsible operator or determine that a business is ineligible to participate in the logo sign programs.

Provides that attraction service businesses that are historical or cultural, or that provide amusement or leisure activities to the public are eligible to place a logo on a logo sign panel.

Prescribes responsible operator pricing procedures, including use of rate schedules or competitive pricing established through offers, to determine the ranking order of responsible operators who may be awarded a logo sign lease.

Prescribes factors for a contractor or ADOT to use in ranking responsible operators who may be awarded a logo sign lease at each highway interchange or location.

Requires review of secondary business leases at the beginning of the 24th month to determine responsible operator compliance with the lease terms.

Allows a higher-ranked responsible operator who requests a logo sign to be awarded a lease under certain conditions when no specific service information sign panel openings exist at a highway intersection or interchange.

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Provides that a contractor or the Department may choose not to renew an existing lease or a lease expiring within the next 90 calendar days if an eligible business with higher priority requests placement of a logo on a logo sign panel at the same location.

Provides that a contractor or ADOT will solely determine the location and position of new logos on logo sign panels when logo sign panel vacancies occur and a new responsible operator wishes to lease space or a waiting list exists.

Specifies that a contractor or ADOT is not required to place a logo sign at any particular state highway interchange or intersection.

Removes prior prohibitions for a contractor to place logo signs on certain highways in urbanized areas.

Allows logo signs in urbanized areas to remain until the minimum lease obligations are fulfilled or the lease is terminated, if urban boundaries are adjusted in a subsequent decennial census.

Amends provisions regarding ADOT's or the contractors' responsibilities in the logo sign programs.

Requires a responsible operator to fulfill all the requirements of the urban or rural logo sign program, including contractual obligations.

Allows logo signage in place at the end of a lease term to be transitioned from the urban to the rural program if an area is identified as rural, or from rural to urban if an area is identified as urban in a subsequent decennial census.

Allows for relocation of logo signs for a business at the exit ramp or interchange on the state highway system directly preceding the eliminated exit ramp or interchange when ADOT eliminates an exit ramp or interchange.

Provides that the rule changes do not affect a responsible operator's existing lease before the current lease expires.

Specifies the number of specific service information sign panels allowed on interstate or other state highways at the approach to an intersection, interchange, or exit ramp. Allows an exception for existing logo signs displayed or approved for display on July 6, 2012.

Deletes restrictions on combination signs.

Allows a contractor or the Department to place supplemental wording on logo sign panels in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

Authorizes ADOT or a contractor to collect applicable taxes in a lease with a responsible operator.

Updates the logo sign requirements in the rural and urban logo sign programs in accordance with the MUTCD, and to meet the needs of the urban and rural logo sign programs.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

ADOT did not review any studies relevant to the rules.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

The urban program will generate substantial revenue and net cash flow to the State Highway Fund. On completion of build-out of the urban logo sign program in FY 2017, based on current assumptions, ADOT estimates that a net cash flow of up to \$8 million annually will be generated for the State Highway Fund. These proceeds will be used for highway construction, maintenance, and other state transportation purposes authorized by law, thus benefitting Arizona citizens and businesses, as well as the motoring public. This revenue will be generated without increasing existing taxes or imposing new taxes on the public at large.

Because ADOT has never operated an urban logo sign program, ADOT will need to make an infrastructure investment of \$16 million in urban logo signage, logo sign structures, and other program operating costs between FY 2014 and FY 2016. Income generated from both the urban and rural logo sign programs will be used to fund the necessary infrastructure costs. ADOT has also incurred other external costs to date associated with planning and initiation of the urban program totaling \$188,000 for a business data census, corridor engineering analyses, a survey of other states' logo sign programs, and a comparative promotion analysis. In addition, ADOT's costs also include the costs to prepare this rulemaking.

ADOT estimates that following build-out of the program in FY 2017, on-going revenue of \$2.6 million in transaction privilege taxes from operating lease charges, additional retail sales generated for logo sign businesses, and from initial sign fabrication and installation will be collected and sent to the Department of Revenue. State transaction privilege taxes are distributed by law under Title 42, Chapter 5, Article 1, and subsequent statutes and Articles, to cities and counties throughout the state, thus having a positive financial impact on many jurisdictions that receive these monies.

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ADOT has received approval from the Arizona Department of Administration (ADOA) to hire three new full-time employees and is requesting three additional employees to support the urban logo sign program. The annual cost of the salary, employee-related expenses, and other costs associated with the six full-time positions is \$500,000. The positions will provide needed staffing for ADOT to begin operating the urban logo sign program. ADOT has notified the Joint Legislative Budget Committee (JLBC) that six additional employees are needed for the urban logo sign program.

The public will benefit significantly from the logo sign program through the signage of various travel-related business services that are located along state highways, thereby providing additional information to motorists, increasing sales of various businesses, and generating additional taxes for the state and political subdivisions.

These rules do not mandate eligible businesses to participate in the logo sign program. Some travel or service-related businesses operating adjacent to state highways in the state may opt to participate in the program and pay logo sign lease costs to gain more visibility and generate more business revenue. ADOT recognizes that in some urban areas with many qualified, eligible businesses, the business demand for logo signs will exceed the available signage at certain highway exits, or due to other signage and highway engineering issues, no or limited logo signage may be erected. Alternative solutions to the demand issue were considered. To maximize the program benefits to the State Highway Fund and transaction privilege tax (TPT) beneficiaries, and to make the program available to all qualified businesses in an area, competitive bidding was chosen. Alternative solutions that were considered included setting a fixed market rate and using proximity to the highway as a tie-breaker. ADOT encountered difficulty in setting a market rate and determined that many businesses would pay the market rate and few logo spaces may be available on a logo sign panel. Using proximity to the highway tends to unfairly treat businesses located farther away from highway exits. For most urban locations ADOT will use competitive bidding to set the market rate for business.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Changes were made throughout the rules to ensure conformity with the rulemaking format and style requirements of the Administrative Procedure Act, the Office of the Secretary of State, and the Governor's Regulatory Review Council. In addition, ADOT made these changes:

In item 3, the rules are effective 60 days after they are filed with the Secretary of State.

In item 11, the Department appreciates the support of the Marana Chamber of Commerce and the town of Marana for the rules and no rule changes are necessary.

In item 12(a), the Department stated that statute allows encroachments on a state highway with prior written authorization from the Director and issuance of a general permit is technically unfeasible under A.R.S. § 41-1037(A)(3).

R17-3-902

Struck the definition of educational and removed the hours of operation of an educational attraction.

Provides that ADOT will prescribe the form of the written lease.

Provides that ADOT will provide information to businesses relevant to factors prescribed on a contractor's or the Department's website.

Allows a responsible operator to request ADOT to relocate a logo sign as ADOT deems appropriate.

Requires a business affected by exit ramp elimination to meet all eligibility criteria to participate in the program and meet additional criteria.

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

ADOT conducted many outreach meetings with interested community groups and officials prior to filing the proposed rules to inform them about the urban logo sign program in advance of the anticipated program start. ADOT conducted an oral proceeding on the rules on January 17, 2013. The Department did not receive any public comments requesting changes on these rules, but received a written comment from the Marana Chamber of Commerce and the town of Marana in support of the rules. The Department appreciates the support of the Marana Chamber of Commerce and the town of Marana for the rules. No rule changes are necessary. Two government officials from the city of Avondale expressed support for the rules.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rules or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to questions (a) through (c):

There are no other matters prescribed by statute applicable to ADOT or to this rulemaking.

a. Whether the rules require a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules allow ADOT or a contractor to build, erect, and maintain logo signs. R17-3-902(F)(8) requires a contractor to obtain an encroachment permit before erecting a specific service information sign. ADOT will contract with a contractor to erect and maintain logo signs, who is required to get an encroachment permit. A.R.S. § 28-7053(D) allows certain encroachments on a state highway with prior written authorization from the Director. Issuance of a general permit is technically unfeasible under A.R.S. § 41-1037(A)(3).

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A.A.C. R17-3-501 defines encroachment and encroachment permit as follows:

“Encroachment” means any use of, intrusion upon, or construction of improvement within a state highway right-of-way by any person or entity other than the Department for any purpose.

“Encroachment permit” means a written approval granted by the Department for construction of a fixed or temporary improvement within a state highway right-of-way, or for any activity requiring the temporary use of or intrusion upon a state highway right-of-way.

b. Whether a federal law is applicable to the subject of the rules, whether the rules are more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

A federal law, 23 U.S.C. 109(d), is applicable to the subject of the rules. This statute provides that on any highway project constructed in which federal funds are involved since December 20, 1944, the location, form, and character of informational and regulatory signs installed or placed by any public authority or other agency are subject to the approval of the state transportation department with the concurrence of the Secretary of Transportation, who may concur only in installations that promote the safe and efficient use of the highways. The only approval required is pursuant to this statute. These rules are no more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rules’ impact of the competitiveness of business in this state to the impact on business in other states:

The Department did not receive any analyses that compared the rules’ impact on competitiveness of business in this state with the impact on business in other states.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. Whether the rules were previously made, amended, or repealed as emergency rules. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION - HIGHWAYS

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

Section

- R17-3-901. Signing for Colleges and Universities
- R17-3-902. Logo Sign Programs
- R17-3-903. ~~Urban Logo Sign Program and Requirements~~ Repealed
- R17-3-904. ~~Rural Logo Sign Program~~ MUTCD Requirements for Logo Signs
- R17-3-905. Rural Logo Sign Requirements
- R17-3-906. Existing Leases

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

R17-3-901. Signing for Colleges and Universities

A. Definitions.

“Community College” has the meaning as prescribed in A.R.S. § 15-1401.

“Department” means the Arizona Department of Transportation.

“FHWA” means the Federal Highway Administration of the U.S. ~~Department of Transportation~~ DOT.

“Major metro area” means an urban area with a population of at least 50,000.

“Municipality” means an incorporated city or town.

“MUTCD” means the Manual on Uniform Traffic Control Devices, a national standard for the design and application of traffic control devices that is published by the U.S. ~~Department of Transportation~~ (U.S. DOT), ~~Federal Highway Administration~~ (FHWA) and ~~that is used as the standard for traffic control devices for use on the streets and highways of the~~ this state of Arizona as required by A.R.S. § 28-641.

“Nonconforming sign” means an erected sign that does not comply with this Section or A.R.S. § 28-642(D) due to changes in the statutes, rules, or changed conditions. Examples of changed conditions include the reconstruction of a highway or physical deterioration of a sign.

“Regionally accredited college or university” means a college or university accredited by a regional institutional accredi-

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ing association recognized by the Arizona State Board for Private Postsecondary Education.

“Rural area” means all areas other than a major metro area or an urban area.

“Signing” means standard highway supplemental guide signs as specified in the MUTCD.

“State highway” has the same meaning as prescribed in A.R.S. § 28-101.

“State University” means a university established and maintained by the Arizona Board of Regents under A.R.S. § 15-1601.

“Trailblazing sign” means a sign installed by a local governmental agency, off the state highway, to guide traffic to a college or university.

“Trip” means a one-way commute to or from a college or university, calculated by the Department based on the number of students or dorm beds, using the following equivalents:

One student = 1 1/2 trips

One dorm bed = three trips.

“Urban area” means a municipality having a population of at least 10,000 but less than 50,000.

“U.S. DOT” means the United States Department of Transportation.

- B.** Application for signing. A college or university referenced in A.R.S. § 28-642(D) may request signing by submitting a letter on its letterhead to the Department’s State Traffic Engineer. The letter shall contain the following information:
1. Name of college or university;
 2. Complete street address;
 3. Names of agencies granting accreditation;
 4. Number of students;
 5. Number of dormitory beds, if applicable; and
 6. Signature of a person authorized to sign for the college or university.
- C.** Requirements. To be considered for signing, a college or university referenced in A.R.S. § 28-642(D) shall satisfy the following:
1. Is on a road that intersects a state highway. If a college or university is on a road that does not intersect a state highway, it still may qualify if:
 - a. The governing political subdivision submits to the Department, within 30 days from the Department’s receipt of the request for signing, written confirmation stating that the governing political subdivision will install and maintain trailblazing signs; and
 - b. The governing political subdivision installs trailblazing signs before the Department places signing on the state highway.
 2. Meets all the requirements under subsection (C)(2)(a), (b), or (c) of this Section.
 - a. If in a major metro area:
 - i. Generates at least 4000 trips per weekday.
 - ii. Is three miles or less from a state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of five miles.
 - b. If in an urban area:
 - i. Generates at least 2000 trips per weekday.
 - ii. Is four miles or less from a state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of five miles.
 - c. If in a rural area:
 - i. Generates at least 1000 trips per weekday.
 - ii. Is five miles or less from the state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of 15 miles.
- D.** Exceptions to standards. The Department may place supplemental guide signs on state highways to direct traffic to colleges and universities. The Department shall determine whether to place supplemental guide signs for a college or university based on the specific criteria and the guidelines in the MUTCD.
- E.** Nonconforming signs. The Department may remove a nonconforming sign if:
1. Other signs have greater priority under the criteria in the MUTCD,
 2. Physical spacing of signs is limited for an upcoming interchange or intersection, or
 3. A greater number of trips are generated by the subject of other guide signs.
- F.** College or university. Only the initial, main campus of a college or university referenced in A.R.S. § 28-642(D) may qualify for signing, unless otherwise permitted by statute.

R17-3-902. Logo Sign Programs

A. Definitions.

“Attraction” means any of the following:

“Arena” means a facility that has a capacity of at least 5000 seats, and is a:

Stadium or auditorium;

Track for automobile, boat, or animal racing; or

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Fairground that has a tract of land where fairs or exhibitions are held; and permanent buildings that include bandstands, exhibition halls, and livestock exhibition pens.

“Cultural” means an organized and permanent facility that is open to all ages of the public, and is a:

Facility for the performing arts, exhibits, or concerts; or

Museum with professional staff, and an artistic, historical, or educational purpose, that owns or uses tangible objects, cares for them, and exhibits them to the public.

“Domestic farm winery” means a site licensed by the Arizona Department of Liquor Licenses and Control under A.R.S. § 4-205.04 that produces at least 200 gallons and not more than 40,000 gallons of wine annually that is commercially packaged for off-premises sale, and is open to the public for tours to provide an educational format for informing visitors about wine.

“Domestic microbrewery” means a site licensed by the Arizona Department of Liquor Licenses and Control under A.R.S. § 4-205.08 that produces not less than 5000 gallons of beer in each calendar year following the first year of operation and not more than 1.24 million gallons of beer in a calendar year, and is open to the public for tours to provide an educational format for informing visitors about beer.

“Dude ranch” means a facility offering overnight lodging, meals, horseback riding, and activities related to cattle ranching;

“Educational” means a facility that is a:

~~Community college, regionally accredited college or university, or state university, as defined in R17-3-901.~~

~~Educational excludes a business or research park affiliated with a college or university;~~

~~Scientific institution, designated research area, or site of specialized research techniques and apparatus that is accredited by a nationally recognized educational accreditation agency, and that conducts regular tours; or~~

~~Zoological or botanical park that houses and exhibits living animals, insects, or plants to the public.~~

“Farm-related” means an established area or facility where consumers can purchase directly from Arizona producers locally-grown, consumer-picked or pre-picked produce, or local products produced from locally-grown produce.

“Golf course” means a facility offering at least 18 holes of play. Golf course excludes a miniature golf course, driving range, chip-and-putt course, and indoor golf.

“Historic” means a structure, district, or site that is listed on the National or Arizona Register of Historic Places as being of historical significance, and includes an informational device to educate the public about the facility’s historic features.

“Mall” means a shopping area with at least 1 million square feet of retail shopping space.

“Recreational” means a facility for physical exercise or enjoyment of nature that includes at least one of the following activities: walking, hiking, skiing, boating, swimming, picnicking, camping, fishing, playing tennis, horseback riding, skating, hang-gliding, and climbing;

“Scenic tours” means a business that offers guided tours of scenic areas in Arizona through various means, including air, motorized vehicle, animal, walking, or biking;

“Average annual daily traffic” means the total volume of traffic passing a point or segment of an interstate or other state highway in both directions for one year, divided by the number of days in the year, adjusted for hours of the day counted, days of the week, and seasons of the year.

“Business” means an entity that provides a specific service open for the general public; and is located on a roadway within the required distance of an interstate or ~~rural~~ other state highway, and is a primary or secondary business.

“Contract” means a written agreement between ~~the Department and~~ a contractor and the Department to operate a logo sign program or any aspect of a logo sign program that describes the obligations and rights of both parties.

“Contractor” means a person or entity that enters into an agreement with the Department to operate a logo sign program or any aspect of a logo sign program, and that is responsible for those aspects of a logo sign program as provided in the contract.

“Department” means the Arizona Department of Transportation.

“Exit ramp” means a roadway by which traffic may leave a controlled access highway, ~~to another highway.~~

“FHWA” means the Federal Highway Administration of the U.S. ~~Department of Transportation.~~ DOT.

“Food court” means a collective food facility that exists in one contiguous area and contains a minimum of three separate food service businesses.

“Highway” has the same meaning as prescribed in A.R.S. § 28-101.

“Interchange” means the point at which traffic on a system of interconnecting roadways that have one or more grade separations, moves from one roadway to another at a different level.

“Intersection” has the same meaning as prescribed in A.R.S. § 28-601.

“Interstate system” has the same meaning as prescribed in A.R.S. § 28-7901.

~~“Interstate logo sign program” means a system to install and maintain specific service information signs on certain portions of an interstate system as provided in A.R.S. § 28-7311.~~

“Lease agreement” means a written contract between a contractor and a responsible operator, or between the Department and a responsible operator, to lease space for a responsible operator’s logo on a contractor’s or the Department’s

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specific service information sign.

“Logo” means an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.

“Logo sign” means a specific service information sign consisting of a lettered board attached to a separate rectangular panel that displays an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.

“Logo sign panel” means a separate rectangular panel on which a logo is placed.

~~“Major decision point” means a location at or before the point at which a rural state highway intersects with another rural state highway or a local roadway, that is within a municipality (except an urbanized area), and that the Department determines to be the point at which a driver shall make a decision whether to stay on the highway or turn off onto the other highway or local roadway.~~

“Municipality” means an incorporated city or town.

~~“MUTCD” has the same meaning as prescribed in R17-3-901.~~ means the Manual on Uniform Traffic Control Devices, a national standard for the design and application of traffic control devices that is published by the U.S. DOT/FHWA and that is the standard for traffic control devices on the streets and highways of this state as required by A.R.S. § 28-641.

“Primary business” means:

A gas service business that is within three miles of an intersection or exit ramp; is in continuous operation to provide services at least 16 hours per day, seven days per week for the interstate system; and 12 hours per day, seven days per week, for other highways;

A food service business that is within three miles of an intersection or exit ramp terminal and is in continuous operation to serve at least two meals per day at least six days per week;

A lodging service business that is within three miles of an intersection or exit ramp terminal;

A camping service business that is within five miles of an intersection or exit ramp terminal;

An attraction service business, or staging area of that business, that is within three miles of an intersection or exit ramp terminal; or

A 24-hour pharmacy that is within three miles in any direction of an interchange or exit ramp terminal: on the interstate system.

“Ramp terminal” means the area where an exit ramp intersects with a roadway.

“Responsible operator” means a person or entity that:

Owns or operates ~~a~~ an eligible business, pursuant to subsection (C) of this Section.

Has authority to enter into a lease, ~~and~~

Enters into a lease for a logo sign through the ~~interstate, rural, or urban logo sign program, and~~

Has not become ineligible to participate.

“Rural logo sign program” means a system to install and maintain specific service information signs on a rural state highway outside of an urbanized area, as provided in A.R.S. § 28-7311-~~(E)(2).~~

“Rural state highway” means any class of state highway, ~~other than an interstate highway,~~ located outside of an urbanized area as provided in A.R.S. § 28-7311-~~(B) and~~ (E)(2).

“Secondary business” means a business as follows:

A gas service business that is within three to 15 miles of an intersection or exit ramp terminal, and is in continuous operation to provide services at least eight hours per day, five consecutive days per week;

A food service business that is within three to 15 miles of an intersection or exit ramp terminal, and is in continuous operation to serve at least two meals per day (either breakfast and lunch, or lunch and dinner) for a minimum of five consecutive days per week;

A lodging service business that is within three to 15 miles of an intersection or exit ramp terminal;

A camping service business that is within five to 15 miles of an intersection or exit ramp terminal; or

An attraction service business, or staging area of that business, that is within three to 15 miles of an intersection or exit ramp terminal.

~~A 24-hour pharmacy that is between three to 15 miles of an interchange or exit ramp terminal.~~

“Specific service” means gas, food, lodging, camping, attractions, or 24-hour pharmacies.

“Specific service information sign” means a rectangular sign panel that contains directional information, one or more logos, and the following words:

“GAS,” “FOOD,” “LODGING,” “CAMPING,” “ATTRACTION,” OR “24-HOUR PHARMACY.”

“Staging area” means a regular, designated site where a scenic tour begins.

“State highway” has the same meaning as prescribed in A.R.S. § 28-101.

~~“Straight-ahead sign” means a specific service information sign that provides additional directional guidance to a location, route, or building located straight ahead on a roadway, and that is located before a junction that is a major decision point.~~

“Trailblazing sign” means a specific service information sign that provides additional directional guidance to a loca-

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tion, route, or building from another highway or roadway.

"Urbanized area" has the same meaning as prescribed in A.R.S. § 28-7311(E)(2).

"Urban logo sign program" means a system to install and maintain specific service information signs on an interstate system or other state highway within an urbanized area, as provided in A.R.S. § 28-7311.

"U.S. DOT" means the United States Department of Transportation.

B. Administration.

1. The Department may operate an urban, ~~an interstate~~, and a rural logo sign program, or may select a contractor to administer an urban, ~~an interstate~~, and a rural logo sign program. An urban logo sign program may be implemented on state highways in any urbanized areas in the state. A rural logo sign program may be implemented on state highways located outside of urbanized areas in the state. If the Department utilizes a contractor to administer an urban, ~~an interstate~~, and a rural logo sign program, the Department shall solicit offers, as provided in A.R.S. §§ 41-2501 through 41-2673, to select a contractor.
2. The Department may contract separately for an urban, ~~an interstate~~, and a rural logo sign program.
3. A contract shall specify the standards that a contractor shall use, which are contained in the MUTCD, U.S. DOT/FHWA; current edition as adopted by the Department under A.R.S. § 28-641 and any other requirements and standards prescribed by the Department.
4. The Department may propose its own form of a written lease agreement with a responsible operator. The Department shall ~~pre-approve~~ prescribe the form of any written lease agreement between a contractor and a responsible operator. A contractor's lease agreement with a responsible operator shall include, by reference, the terms and conditions of the Department's contract with a contractor under A.R.S. §§ 41-2501 through 41-2673. A contractor or the Department may terminate program participation of any responsible operator under subsection (C)(1) of this Section.

C. Eligibility criteria for primary and secondary businesses.

1. Any business is ineligible to place a logo on a logo sign panel on a particular state highway if it already has a highway guide sign installed on that state highway by a contractor or the Department. Any business is ineligible for program participation if:
 - a. Thirty calendar days have elapsed since a contractor or the Department issued a notice of default to a business, during which time a business failed to cure the default, or
 - b. A business has defaulted on a lease.
2. Gas service business. To be eligible to place a logo on a logo sign panel, a gas service business shall:
 - a. Provide gasoline, diesel fuel, oil, and water for public purchase or use;
 - b. Provide sanitary restroom facilities and drinking water;
 - c. Provide a telephone available for public use; and
 - d. Meet the additional requirements for a primary or secondary gas service business in the definition of a primary or secondary business in subsection (A) of this Section.
3. Food service business. To be eligible to place a logo on a logo sign panel, a food service business shall:
 - a. Provide sanitary restroom facilities for customers;
 - b. Provide a telephone available for public use;
 - c. If a food service business is part of a food court located within a shopping mall, the shopping mall may qualify as the responsible operator if the food court:
 - i. Complies with this Section, and
 - ii. Has clearly identifiable, on-premise signing consistent with the logo sign that is sufficient to guide motorists directly to the entrance to the food court.
 - d. Have a license where required; and
 - e. Meet the additional requirements for a primary or secondary food service business in the definition of a primary or secondary business in subsection (A) of this Section.
4. Lodging service business. To be eligible to place a logo on a logo sign panel, a lodging service business shall:
 - a. Provide five or more units of sleeping accommodations;
 - b. Provide a telephone available for public use;
 - c. Have a license, where required;
 - d. Provide sanitary restroom facilities for customers; and
 - e. Meet the additional requirements for a primary or secondary lodging service business in the definition of a primary or secondary business in subsection (A) of this Section.
5. Camping service business. To be eligible to place a logo on a logo sign panel, a camping service business shall:
 - a. Be able to accommodate all common types of travel trailers and recreational vehicles;
 - b. Have a license, where required;
 - c. Provide sanitary restroom facilities and drinking water;
 - d. Be available on a year-round basis unless camping in the community is of a seasonal nature in which case, the facilities in question shall be open to the public 24 hours per day, seven days per week during the entire season; and

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- e. Meet the additional requirements for a primary or secondary camping service business in the definition of a primary or secondary business in subsection (A) of this Section.
6. Attraction service business. To be eligible to place a logo on a logo sign panel, an attraction service business shall meet the following requirements, if applicable:
 - a. Derive less than 50% of its sales from:
 - i. The sale of alcohol consumed on the premises, or
 - ii. Gambling.
 - b. Derive more than 50% of its sales or visitors during the normal business season from motorists ~~not residing who do not reside~~ within a 25-mile radius of the business.
 - c. Provide at least 10 parking spaces.
 - d. ~~Be significant as a historic, scientific, educational, or recreational site, natural scenic phenomenon, or unique commercial amusement, or leisure activity.~~ Provide historical, cultural, scientific, educational, or recreational site, natural scenic phenomenon, or unique commercial amusement, or leisure activity to the public.
 - e. Be in continuous operation at least six hours per day, six days per week, except:
 - i. An arena attraction shall hold events at least 28 days annually;
 - ii. A cultural attraction shall be open at least 180 days annually;
 - iii. ~~An educational attraction shall operate at least six hours per day, five days per week;~~
 - iv-iii. A domestic farm winery or domestic microbrewery shall be open for tours at least 40 days annually;
 - v-iv. A farm-related attraction shall be open at least 120 days annually; or
 - vi-v. A dude ranch shall be open at least 150 days annually.
 - f. Meet the additional requirements for a primary or secondary attraction service business in the definition of a primary or secondary business in subsection (A) of this Section.
7. Twenty-four hour pharmacy business. To be eligible to place a logo on a logo sign panel, a 24-hour pharmacy business shall:
 - a. Operate continuously 24 hours per day, seven days per week;
 - b. Have a state-licensed pharmacist present and on duty at all times; and
 - c. Meet the additional requirements for a primary ~~or secondary~~ 24-hour pharmacy business in the definition of a primary ~~or secondary~~ business in subsection (A) of this Section.

D. Ranking. Responsible operator pricing and lease procedures.

- ~~1. If more than six eligible businesses providing the same specific service request lease space and placement of a logo on one specific service information sign, a contractor or the Department shall use the following ranking criteria to determine which businesses are awarded a lease:~~
 - ~~a. The business closest to an intersection or exit ramp terminal shall receive first priority;~~
 - ~~b. A gas service business or a food service business that provides the most days and hours of service shall receive second priority;~~
 - ~~c. A business that does not have an off-premise advertising sign to direct motorists to its business within five miles from the location of the specific service information sign shall receive third priority; and~~
 - ~~d. All other businesses shall be ranked on a first come first served basis by the date and time of the initial request.~~
- ~~2. If two or more businesses have the same ranking, a contractor or the Department shall award a lease to the first business that requests placement of a logo on a logo sign panel. A contractor or the Department shall establish a waiting list for other businesses in sequence of each request.~~
- ~~3. A contractor or the Department may elect not to renew the lease of a responsible operator if another eligible business with higher priority requests lease space for placement of a logo on a logo sign panel.~~
1. In the rural and urban logo sign programs, a contractor or the Department may use:
 - a. Rate schedules that are established and periodically adjusted by the Department; or
 - b. Competitive pricing established by one or more offers from potential or current responsible operators.
2. A contractor or the Department may use competitive pricing or rate schedules to determine the ranking order of potential or current responsible operators who may be awarded a logo sign lease at each appropriate highway interchange or location.
3. Along with the amount of available signage, competitive pricing or rate schedules may be based on any one or a combination of the following additional factors:
 - a. The average, annual, daily traffic at, or adjacent to, the highway location of the specific service information sign;
 - b. The population mix and relative distribution between primary and secondary businesses that appear to meet all the program requirements;
 - c. The ranking order determined by a contractor or the Department as established by competitive pricing proposed or offered by potential or current responsible operators, or rate schedules, at each appropriate highway interchange or location; or
 - d. The competitive market conditions, as well as economic, regulatory, logistical, and other related factors as determined by the Department.
4. If any of the factors in subsection (D)(3) of this Section are used in competitive pricing or rate schedules, a contractor

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or the Department shall make information relevant to these factors available to businesses on the contractor's or the Department's website.

5. If the factors in subsection (D)(3) of this Section do not resolve the business rankings at a location, a contractor or the Department shall prioritize the remaining requests for placement of a logo on a specific service information sign panel based on the following additional factors in the order listed below:
 - a. The responsible operator situated closest to the highway intersection or exit ramp terminal;
 - b. A gas service business or a food service business that provides the most days and hours of service to the public; and
 - c. The first-in-time, eligible responsible operator to request placement of a logo on a logo sign panel.
6. If a potential responsible operator requests placement of a logo on a specific service information sign panel at a highway intersection or interchange where there are no available placements, and does so no later than 90 calendar days before the first expiration of an existing lease with a lower-ranked responsible operator at that location, a contractor or the Department may award a lease to the highest-ranked responsible operator at that location. A contractor or the Department may establish a waiting list of requesting businesses and potential responsible operators.
7. A contractor or the Department may choose not to renew an existing lease or a lease expiring within the next 90 calendar days, if another eligible business with higher priority requests placement of a logo on a specific service information sign panel at the same location.

E. Secondary businesses.

1. Lease limitations. For a secondary business, a contractor or the Department may enter into a lease for up to five years or renew a lease for up to five years, with the following terms:
 - a. A responsible operator is guaranteed a term of two years, providing the responsible operator complies with all other terms of the lease; A contractor or the Department shall review the lease of a responsible operator at the beginning of the 24th month of the lease term to determine if the responsible operator complies with all other terms of the lease;
 - b. After the ~~two-year period~~, 24-month review, a contractor or the Department ~~shall~~ may terminate the lease and remove the appropriate logo from the logo sign panel if another eligible business with higher priority requests lease space for a logo on a logo sign panel; and
 - c. A contractor or the Department shall notify a responsible operator at least ~~six months~~ 90 calendar days before terminating the lease and removing a logo from the logo sign panel.
2. A contractor or the Department ~~shall~~ may display the following additional information on a specific service information sign for a secondary business, as space allows, based on the following ranking order:
 - a. Distance,
 - b. Days and hours of operation, and
 - c. Seasonal operation.

F. Contractor or Department responsibility.

1. A contractor shall follow all Department design standards and specifications for all sign panels, supports, and materials, as provided in the contract and the MUTCD.
2. A contractor or the Department shall ensure that a business complies with all criteria established in this Section. A contractor or the Department ~~shall not~~ may choose not to enter into a lease agreement or renew a lease agreement if the eligibility criteria in subsection (C) of this Section are not met. If a responsible operator becomes ineligible to place a logo on a logo sign panel, a contractor or the Department shall remove a logo from a logo sign panel after notifying a responsible operator as provided in the lease.
3. A contractor or the Department shall require that a responsible operator certify in writing as directed that a responsible operator will comply with all applicable federal, state, and local laws, ordinances, rules, ~~and~~ regulations, and contractual requirements of the rural or urban logo sign program.
4. Nothing in these rules shall require a contractor or the Department to place or maintain a specific service information sign at any particular interchange or intersection. A contractor or the Department shall not place a specific service information sign that obstructs or ~~detracts from~~ interferes with a traffic control device.
5. A contractor shall not remove or relocate an existing official traffic control device, as defined in A.R.S. § 28-601(12), to accommodate a specific service information sign without prior written approval by the Department, or a local authority under A.R.S. § 28-643.
6. A contractor or the Department shall provide a copy of the signed lease agreement to a responsible operator, ~~as defined in subsection (A).~~ A responsible operator shall deliver a logo for the logo sign panel to a contractor or the Department for installation, or contract with a contractor to fabricate a logo for a logo sign panel to a responsible operator's, and the Department's, specifications.
7. A Within 30 calendar days after receipt of a written request from a responsible operator, a contractor or the Department shall return any pre-paid lease payments to a responsible operator if a responsible operator's logo is not installed on a logo sign panel within 90 calendar days of tendering the payments, for reasons solely caused by the Department or a contractor.

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8. A contractor shall obtain an encroachment permit under R17-3-501 through R17-3-509 before erecting or modifying a specific service information sign along a state highway.
 9. If a contractor requests an encroachment permit under R17-3-501 through R17-3-509, the Department's staff shall decide the best placement of a specific service information sign and shall cooperate with a contractor to provide information to the motoring public as prescribed in subsection (E)(2) of this Section.
 10. If an urban, ~~interstate~~, or rural logo sign program is terminated, a contractor or the Department shall:
 - a. Notify a responsible operator by certified mail, or a mutually agreed upon electronic communication method, of the program termination and the location where a responsible operator may claim its logo;
 - b. Remove all sign panels and supports, as directed by the Department; and
 - c. Refund any unused lease payments on a prorated basis to each responsible operator.
 11. A contractor or the Department shall solely determine the position and location of new or additional logos on logo sign panels or specific service information signs when logo sign vacancies occur on a logo sign panel or a specific service information sign panel, and a new responsible operator wishes to lease space on that panel, or a waiting list exists.
 12. In a lease agreement with a responsible operator, a contractor or the Department may collect all applicable taxes.
 - G.** Urbanized or rural boundary changes. If the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated or adjusted, a contractor or the Department shall allow:
 1. The logo signs within the urbanized area boundaries and outside of those boundaries to remain in place until the minimum lease obligations between a contractor or the Department and a responsible operator have been fulfilled; or
 2. Until lease termination, whichever occurs first.
 - H.** Signage transition. Logo signage in place at the end of a lease term following boundary changes in subsection (G) of this Section may be transitioned from the urban to the rural logo sign program or from the rural to the urban logo sign program as appropriate.
 - I.** Elimination of exit ramp or interchange. When the Department eliminates an exit ramp or interchange from the state highway system, a contractor or the Department may install and maintain a specific service information sign at an exit ramp or interchange directly preceding the exit ramp or interchange that the Department eliminates in each direction, as follows:
 1. On request of a responsible operator, the Department may relocate a logo sign panel or a specific service information sign, as deemed appropriate by the Department.
 2. A business affected by exit ramp or interchange elimination shall meet all eligibility criteria for continued program participation as prescribed in Subsection C of this Section and the following:
 - a. Be located directly off the interstate or other state highway, and
 - b. Had previous routine access from the eliminated exit ramp or interchange with direct access from:
 - i. The crossroad at the eliminated exit ramp or interchange;
 - ii. The frontage road of the interstate or other state highway at the eliminated exit ramp or interchange, within 1000 feet of the crossroad; or
 - iii. The frontage road of the interstate or other state highway at the eliminated exit ramp or interchange, within 1000 feet of the crossroad, as the frontage road existed before the exit ramp or interchange was eliminated.
- R17-3-903. Urban Logo Sign Program and Requirements Repealed**
- A.** ~~Elimination of exit ramp or interchange. For purposes of the urban logo sign program, when the Department eliminates an exit ramp or interchange from the state highway system in an urbanized area, a contractor or the Department shall install and maintain a specific service information sign panel on an interstate highway within an urbanized area, at an exit ramp or interchange directly preceding the exit ramp or interchange that the Department eliminates, as prescribed in this Section.~~
 1. ~~A business may request placement of a logo on a logo sign panel in writing by contacting the Department.~~
 2. ~~A business shall meet the following eligibility criteria as prescribed in R17-3-902(C), except for any distance requirement:~~
 - a. ~~Be located directly off the interstate highway, and~~
 - b. ~~Have previous routine access from the eliminated exit ramp or interchange with direct access from:~~
 - i. ~~The crossroad at the eliminated exit ramp or interchange;~~
 - ii. ~~The frontage road of the interstate at the eliminated exit ramp or interchange, within 1000 feet of the crossroad; or~~
 - iii. ~~The frontage road of the interstate at the eliminated exit ramp or interchange, within 1000 feet of the crossroad, as the frontage road existed before the exit ramp or interchange was eliminated.~~
 3. ~~A business is responsible for fulfilling all other statutory, regulatory, and contractual requirements of the urban logo sign program.~~
 4. ~~A contractor or the Department shall not place a specific service information sign in an urban area for more than three years.~~
 - B.** ~~Urban area. Except as prescribed in this Section, a contractor shall not place a specific service information or directional sign on any highway in an urbanized area, which includes the following:~~

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1. **Phoenix:**
 - a. Interstate 10, Agua Fria River bridge to Gila River Indian Reservation boundary (milepost 161.68);
 - b. Interstate 17, Skunk Creek bridge to junction Interstate 10;
 - c. State Route 51;
 - d. US 60, Beardsley Canal to Ellsworth Road (milepost 191.40);
 - e. State Route 85, 17th Avenue to 15th Avenue;
 - f. State Route 87, Chandler south city limit (milepost 162.82) to Salt River bridge;
 - g. State Route 88, US 60 to 200 feet north of Tomahawk Road (milepost 197.50);
 - h. State Route 101 loop;
 - i. State Route 143;
 - j. State Route 153;
 - k. State Route 202 loop; or
 - l. State Route 303 loop.
 2. **Tucson:**
 - a. Interstate 10, from railroad overpass (milepost 243.33) to milepost 272.00 (between Kolb and Rita traffic interchanges);
 - b. State Business 19, milepost 59.00 (between Hughes Plant Road and Los Reales Road) to junction Interstate 10;
 - c. Interstate 19, San Xavier Indian Reservation boundary (milepost 57.96) to junction Interstate 10;
 - d. State Route 86, milepost 167.83 (between Century Road and Old Ajo Way) to State Business 19;
 - e. State Route 77, junction Interstate 10 to Oro Valley north city limit (milepost 84.16); or
 - f. State Route 210; or
 3. Any other urbanized area with a population of 100,000 or more.
- C. Boundary changes.** If the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated so that an intersection, interchange, or exit ramp is no longer eligible for the urban logo sign program, the Department shall allow the logo signs within the revised urbanized boundaries to remain until the minimum lease obligations between a contractor and a responsible operator, or between the Department and a responsible operator have been fulfilled, or until lease termination, whichever occurs first.

R17-3-904. Rural Logo Sign Program MUTCD Requirements for Logo Signs

- A. Number of sign panels and services allowed.** ~~Only~~ No more than four specific service information sign panels are allowed on an interstate or ~~rural~~ other state highway at the approach to an intersection, interchange, or exit ramp.
1. Each specific service information sign panel shall contain a maximum of six logos as provided in Chapter 2J of the current version of the MUTCD.
 2. ~~Only one~~ No more than two specific service information sign ~~panel~~ panels for each type of specific service ~~is~~ are allowed on an interstate or ~~rural~~ other state highway at the approach to an intersection, interchange, or exit ramp. A contractor or the Department may combine types of specific services as prescribed in subsection ~~(E)~~ (A)(3) of this Section.
 3. Except for existing logo signs displayed or approved for display as of July 6, 2012, ~~No~~ no more than three types of services shall be represented on any specific service information sign panel. If three types of services are displayed on one specific service information sign panel, the panel shall have two logo sign panels for each service, or a total of six logo sign panels. If two types of services are displayed on one sign, the logo sign panels shall be limited to either three for each type, for a total of six logo sign panels, or four for one type and two for the other type, for a total of six logo sign panels.
 4. One service type shall appear on no more than two specific service information sign panels.
 5. When logos for more than six businesses of a specific service type are displayed at the same interchange or intersection approach, no more than 12 logos of a specific service type shall be displayed on no more than two specific service information sign panels.
- B. Sign sequence.** A contractor or the Department shall install successive specific service information signs for participating responsible operators in the direction of travel for the following as specified in the MUTCD:
1. Twenty-four hour pharmacies,
 2. Attractions,
 3. Camping,
 4. Lodging,
 5. Food, and
 6. Gas services.
- C. Seasonal requirements.** If a responsible operator operates on a seasonal basis, a contractor or the Department shall:
1. Remove or cover a logo on a logo sign panel during the off-season; or
 2. Display the dates of operation, if additional information is not required on the sign under R17-3-902(E)(2).
- D. Sign standards.** If the Department decides to move a specific service information sign because of construction or reconstruction of transportation facilities, or the placement of other signs or traffic control devices, the standards of the

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MUTCD apply regarding the new placement.

E. ~~Combination signs.~~

1. ~~A contractor or the Department shall combine three or fewer types of specific services on a specific service information sign panel, or two or fewer logos for each service, for a total of six logos, as provided in Chapter 2J of the current version of the MUTCD, if:~~
 - a. ~~A contractor or the Department reasonably expects that three or fewer businesses for each service type will request a logo sign within five years from the time of installing the combination sign;~~
 - b. ~~The approach to an intersection, interchange, or exit ramp on an interstate or rural state highway has insufficient space in a single direction for four specific service information signs; or~~
 - c. ~~Businesses for each of the six types of specific services request placement of a logo on a logo sign panel.~~
2. ~~A contractor or the Department shall attempt to achieve representation of as many different service types as possible.~~
3. ~~A contractor or the Department shall not display a logo on a combination sign panel if the specific service type advertised by the logo already exists on a specific service information sign panel on the approach to the intersection, interchange, or exit ramp.~~

F.E. ~~Trailblazing signs.~~

1. ~~A contractor or the Department shall install a trailblazing sign for a responsible operator along a highway if a responsible operator's business is not located on, and is not visible from, an intersection with a highway as directed from the specific service information sign.~~
2. ~~A contractor or the Department may locate a trailblazing sign near all intersections where the direction of the route changes or where a motorist may be uncertain which road to follow.~~
3. ~~A trailblazing sign is limited to four or fewer logos.~~ logo sign panels.
4. ~~A contractor or the Department shall obtain written approval from a local governing authority to install and maintain a trailblazing sign along a highway that is not under the Department's maintenance jurisdiction.~~
5. ~~A contractor or the Department shall not install a logo on a specific service information sign panel until all necessary trailblazing signs have been installed.~~
6. ~~A trailblazing sign shall indicate by arrow the direction to a responsible operator's business.~~
7. ~~A trailblazing sign may:~~
 - a. ~~Duplicate the logo sign or specific service information sign, or both;~~
 - b. ~~Consist of two lines of text; or~~
 - c. ~~Include the type of specific service and distance to a responsible operator's business.~~

G.F. Sign requirements. A logo sign shall comply with A.R.S. § 28-648. Descriptive advertising words, phrases, or slogans are prohibited on a logo sign, except:

1. ~~If a responsible operator does not have an official trademark or logo, a responsible operator may display as its logo, on a logo sign panel, the name indicated in its partnership agreement, incorporation documents, or other documentation.~~
2. ~~Words to identify alternative fuel availability, including "diesel," "propane," "natural gas," and "alcohol" may be placed on a logo sign panel for a gas service business. A contractor or the Department may place supplemental wording on logo sign panels in accordance with the MUTCD.~~

R17-3-905. Rural Logo Sign Requirements

A. ~~In addition to R17-3-902 through R17-3-904 and R17-3-906, the following requirements apply to the rural logo sign program: spacing between specific service information signs on a rural state highway shall be in accordance with the MUTCD based on engineering judgment.~~

1. ~~A business is ineligible to place a logo on a logo sign panel if the business is visible and recognizable from a rural state highway 300 feet from the intersection.~~
2. ~~A contractor or the Department shall not install a specific service information sign on a rural state highway less than 300 feet before an intersection from which the services are available.~~
3. ~~The spacing between specific service information signs on a rural state highway shall be at least 200 feet based on engineering judgment.~~

B. ~~Specific service information sign.~~

1. ~~A contractor or the Department shall install a specific service information sign that combines three or fewer types of specific services and displays the legend "SERVICES" at an approach to an intersection on a rural state highway, in accordance with Chapter 2J of the current version of the MUTCD, if:~~
 - a. ~~A contractor or the Department reasonably expects three or fewer types of specific services to lease space for placement of logos on a specific service information sign panel, and~~
 - b. ~~A contractor or the Department reasonably expects the total number of logo sign panels to be leased on one specific service information sign will be at least three and not more than six.~~
2. ~~A contractor or the Department shall install no more than one specific service information sign panel that displays the legend "SERVICES" at an approach to an intersection.~~
3. ~~A contractor or the Department shall not display a logo on a specific service information sign panel that displays the~~

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~~legend "SERVICES" if the specific service type advertised by the logo sign already exists on a specific service information sign at the approach to the intersection.~~

~~C.B. Agreement.~~ A community official designated by a municipality or town organized under Arizona law may sign a written agreement with ~~the Department or its contractor~~ a contractor or the Department to prohibit installation of logos on logo sign panels or specific service information sign panels on rural state highways within the recognized boundaries of the community.

R17-3-906. Existing Leases

Any change to R17-3-902 through R17-3-905 does not affect a responsible operator's ~~existing~~ lease before the current lease expires.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Editor's Note: The following two Notices of Final Rulemaking were reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1391.) The Governor's Office authorized the notice to proceed through the rulemaking process on September 25, 2012.

[R13-71]

PREAMBLE

1. Articles, Parts, and Sections Affected

Rulemaking Action

Article	Repeal
R19-1-101	Repeal
R19-1-102	Repeal
R19-1-103	Repeal
R19-1-105	Repeal
R19-1-106	Repeal
R19-1-107	Repeal
R19-1-109	Repeal
R19-1-111	Repeal
Article 2	Repeal
R19-1-201	Repeal
R19-1-202	Repeal
R19-1-203	Repeal
R19-1-204	Repeal
R19-1-206	Repeal
R19-1-207	Repeal
R19-1-208	Repeal
R19-1-209	Repeal
R19-1-210	Repeal
R19-1-211	Repeal
R19-1-212	Repeal
R19-1-214	Repeal
R19-1-215	Repeal
R19-1-216	Repeal
R19-1-217	Repeal
R19-1-218	Repeal
R19-1-219	Repeal
R19-1-220	Repeal
R19-1-221	Repeal
R19-1-222	Repeal
R19-1-223	Repeal
R19-1-224	Repeal
R19-1-225	Repeal
R19-1-226	Repeal
R19-1-227	Repeal
R19-1-228	Repeal
R19-1-229	Repeal
R19-1-230	Repeal
R19-1-231	Repeal

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R19-1-232	Repeal
R19-1-233	Repeal
R19-1-234	Repeal
R19-1-235	Repeal
R19-1-251	Repeal
Article 3	Repeal
R19-1-302	Repeal
R19-1-303	Repeal
R19-1-304	Repeal
R19-1-305	Repeal
R19-1-306	Repeal
R19-1-307	Repeal
R19-1-308	Repeal
R19-1-309	Repeal
R19-1-310	Repeal
R19-1-311	Repeal
R19-1-312	Repeal
R19-1-313	Repeal
R19-1-315	Renumber
R19-1-316	Repeal
R19-1-317	Repeal
Table A	Repeal

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 4-112(A)(2) and (B)(1)

Implementing statute: A.R.S. §§ 4-101 through 4-312

3. The effective date for the rules:

July 6, 2013

4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 18 A.A.R. 3011, November 16, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2958, November 16, 2012

5. The agency's contact person who can answer questions about the rulemaking:

Name: Pearllette Ramos
Address: Department of Liquor Licenses and Control
800 W. Washington, 5th floor
Phoenix, AZ 85007
Telephone: (602) 542-9021
Fax: (602) 542-5707
E-mail: Pearllette.ramos@azliquor.gov
Web site: www.azliquor.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In this rule package, the Department is repealing its rules. In a separate rule package, the Department is making new rules that are consistent with statute and agency and industry practice and clear, concise, and understandable.

An exemption from the rulemaking moratorium contained in Executive Order 2012-03 was granted in an e-mail from Steven Killian, policy advisor to Governor Brewer, dated September 25, 2012.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on a study in its evaluation or justification for this rulemaking. This rulemaking does not rely on scientific principles or methods.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

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9. A summary of the economic, small business, and consumer impact:

This rulemaking repeals existing rules. At its meeting on November 6, 2012, Council approved the Department's petition and authorized it not to prepare an Economic, Small Business, and Consumer Impact Statement regarding this rulemaking.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

Because the Department is going to prepare a Notice of Supplemental Proposed Rulemaking regarding five new Sections proposed in the rulemaking that accompanies this rulemaking, it was necessary for the Department to leave in place the Sections in this rulemaking dealing with the subject matter of the five new Sections that will be re-noticed. The four Sections not repealed in this rulemaking but renumbered into the accompanying rulemaking are:

- R19-1-105. Knowledge of Law and Regulations
- R19-1-210. Sign Limitations
- R19-1-228. Exceptions to the General Rule
- R19-1-315. Exemptions to A.R.S. § 4-244.05

The Department will repeal these Sections as part of the Notice of Supplemental Proposed Rulemaking.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

No comments were made regarding the rulemaking.

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Department is repealing the rules in this Chapter. As a result, no permit is required.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The Department is repealing the rules in this Chapter. As a result, federal law is not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

No material is incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

None of the rules was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

ARTICLE 1. STATE LIQUOR BOARD REPEALED

Section

- R19-1-101. ~~Definitions~~ Repealed
- R19-1-102. ~~Granting a License for a Certain Location~~ Repealed
- R19-1-103. ~~Change in Proprietary Interest~~ Repealed
- R19-1-105. ~~Knowledge of Law and Regulations~~ Renumbered
- R19-1-106. ~~Service of Complaints for Judicial Review~~ Repealed
- R19-1-107. ~~Rehearing or Review of Decision~~ Repealed
- R19-1-109. ~~Quota license selection process~~ Repealed
- R19-1-111. ~~Election of Officers~~ Repealed

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ARTICLE 2. ~~DIRECTOR~~ REPEALED

Section

R19-1-201.	Definitions <u>Repealed</u>
R19-1-202.	Intrastate shipping requirements <u>Repealed</u>
R19-1-203.	Intrastate shipping requirements <u>Repealed</u>
R19-1-204.	Interstate Shipping, Importation, Labeling, Solicitation, Advertising <u>Repealed</u>
R19-1-206.	Inducements, Prohibited <u>Repealed</u>
R19-1-207.	Bottles, Reuse or Refilling Prohibited <u>Repealed</u>
R19-1-208.	Hotel/Motel/Restaurant Requirements <u>Repealed</u>
R19-1-209.	Tax requirements <u>Repealed</u>
R19-1-210.	Sign Limitations <u>Renumbered</u>
R19-1-211.	Draught beer signs <u>Repealed</u>
R19-1-212.	Advertising, Misleading <u>Repealed</u>
R19-1-214.	Prohibited Acts <u>Repealed</u>
R19-1-215.	Obscene Films, Pictures Prohibited <u>Repealed</u>
R19-1-216.	Age Restrictions <u>Repealed</u>
R19-1-217.	Display of License <u>Repealed</u>
R19-1-218.	Records, Keeping of <u>Repealed</u>
R19-1-219.	Storage on Unlicensed Premises <u>Repealed</u>
R19-1-220.	Liquors other than authorized by license <u>Repealed</u>
R19-1-221.	Retail Delivery of Spirituous Liquor <u>Repealed</u>
R19-1-222.	Suspension, Adherence to Rules of <u>Repealed</u>
R19-1-223.	Closure Due to Violence <u>Repealed</u>
R19-1-224.	Seizure, Liquors <u>Repealed</u>
R19-1-225.	Credit Law Exception <u>Repealed</u>
R19-1-226.	Commercial Coercion and Bribery <u>Repealed</u>
R19-1-227.	Microbrewery/Retail <u>Repealed</u>
R19-1-228.	Exceptions to General Rule <u>Renumbered</u>
R19-1-229.	Non-alcoholic Malt Beverages, Wines, and Cocktail Mixers <u>Repealed</u>
R19-1-230.	Tapping Equipment, Furnishing, Selling, and Servicing <u>Repealed</u>
R19-1-231.	Foodstuffs <u>Repealed</u>
R19-1-232.	Broken Package Prohibited Offsale Premises <u>Repealed</u>
R19-1-233.	Underage Persons on Licensed Premises <u>Repealed</u>
R19-1-234.	Violence, Report of <u>Repealed</u>
R19-1-235.	Fetal Alcohol Sign Display <u>Repealed</u>

ARTICLE 3. ~~UNLICENSED PREMISES DEFINITIONS AND LICENSING TIME-FRAMES~~ REPEALED

Section

R19-1-302.	Filing of Legal or Equitable Interest <u>Repealed</u>
R19-1-303.	Retail Agents <u>Repealed</u>
R19-1-304.	Standards for Alcohol Training Programs <u>Repealed</u>
R19-1-305.	Change of Address <u>Repealed</u>
R19-1-306.	Name Change Requirements <u>Repealed</u>
R19-1-307.	Closing, Notice of <u>Repealed</u>
R19-1-308.	Surrender of Licenses/Interim Retail Permits <u>Repealed</u>
R19-1-309.	Special Event License <u>Repealed</u>
R19-1-310.	Criteria for Issuing Restaurant License <u>Repealed</u>
R19-1-311.	Patio Outdoor Use Permission <u>Repealed</u>
R19-1-312.	Conveyance License, Application Posting <u>Repealed</u>
R19-1-313.	Interim Permit/Tax Violations <u>Repealed</u>
R19-1-315.	Exemptions to A.R.S. § 4-244.05 <u>Renumbered</u>
R19-1-316.	Public Facilities Exemption <u>Repealed</u>
R19-1-317.	Licensing Time-frames <u>Repealed</u>
Table A.	Licensing Time-frames <u>Repealed</u>

ARTICLE 1. ~~STATE LIQUOR BOARD~~ REPEALED

R19-1-101. ~~Definitions~~ Repealed

In this Article, unless the context otherwise requires:

“Bona fide transaction” means any transaction between a licensee and a person that results in the change of owner-

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ship of the license.

~~“Business establishment or business premises” means the real property and improvements licensed under A.R.S. Title 4.~~

~~“Change in Ownership” means any change in the financial setup of a business establishment which in any way results in a person directly or indirectly becoming a controlling person.~~

~~“Judicial Review” is an appeal to superior court of a final agency decision.~~

~~“Licensed” means having a license or interim permit issued pursuant to this Title, including a license or interim permit on non-use status.~~

~~“Non-use” means when the Licensee has ceased engaging in the business activity covered by the licensee.~~

R19-1-102. Granting a License for a Certain Location Repealed

~~Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:~~

- ~~1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.~~
- ~~2. The number and series of licenses in close proximity.~~
- ~~3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.~~
- ~~4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.~~
- ~~5. Residential and commercial population density in close proximity.~~
- ~~6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.~~
- ~~7. Effect on vehicular traffic in close proximity.~~
- ~~8. The compatibility of the proposed business with other activity in close proximity.~~
- ~~9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.~~
- ~~10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.~~
- ~~11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.~~
- ~~12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.~~

R19-1-103. Change in Proprietary Interest Repealed

~~No licensee shall transfer, assign or make any change in ownership in such business, directly or indirectly, nor shall a partner purchase or otherwise acquire the interest held by any other controlling person or partner in the business, without notifying the Director within 30 days and filing such application, questionnaire or other documentation required by this Title.~~

R19-1-105. Knowledge of Law and Regulations Renumbered

R19-1-106. Service of Complaints for Judicial Review Repealed

~~Complaints for judicial review of a Director’s or Board decision shall be served on the Director at the Department’s office in Phoenix, Arizona.~~

R19-1-107. Rehearing or Review of Decision Repealed

- ~~**A.** A decision of the Director made pursuant to A.R.S. § 4-210 is an initial agency decision. If that decision is appealed to the Board, the determination by the Board, or by a panel established pursuant to A.R.S. § 4-111(D), shall be the final review of the agency decision and subsections (B) through (H) shall not apply.~~
- ~~**B.** If the Board makes the initial agency decision, except as provided in subsection (H), any party in a contested case before the Board who is aggrieved by that decision may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.~~
- ~~**C.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of such a motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.~~
- ~~**D.** A rehearing review of the decision may be granted for any of the following causes materially affecting the moving party’s rights:~~
- ~~1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;~~
 - ~~2. Misconduct of the Board or its hearing officer or the prevailing party;~~
 - ~~3. Accident or surprise which could not have been prevented by ordinary prudence;~~
 - ~~4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced~~

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at the original hearing;

5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. That the decision is not justified by the evidence or is contrary to law.

- E.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- F.** Not later than 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.
- G.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- H.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for application for judicial review of the Board's final decision.
- I.** For purposes of this Section the terms "contested case" and "party" shall have the meaning defined in A.R.S. § 41-1001.

R19-1-109. Quota license selection process Repealed

- A.** For the purpose of randomly selecting applicants to be considered for the issuance of Series 06, Series 07 and Series 09 liquor licenses, a random selection method using a mechanical device shall be employed.
- B.** The random selection method shall consist of a drawing to be conducted in the following manner:
1. The name of each applicant shall be placed on forms of equal size and color provided by the Department.
 2. The forms then shall be deposited in a transparent container (from which the drawing shall take place).
 3. Sequentially numbered balls shall be deposited in a second transparent container. The number of plastic balls shall be equal to the number of licenses available plus an equal number of runners up.
 4. Names shall be randomly drawn from the transparent container. As each name is drawn, a number will be matched with the name of the applicant drawn.
 5. The drawing and matching of an applicant's name to a number will determine the order in which an applicant will be considered for a license. Runners up shall be eligible for consideration as licensees in the event that a successful applicant chooses not to be considered or is disqualified. Such consideration shall be in numerical order.
 6. Applicants whose names are not drawn and matched with a number shall be deemed unsuccessful applicants.

R19-1-111. Election of Officers Repealed

The Board shall elect a chairman and vice chairman annually in February of each year. In the event of a vacancy in either office, an election for that office shall be held at the next regularly scheduled Board meeting.

ARTICLE 2. DIRECTOR REPEALED

R19-1-201. Definitions Repealed

In this Article, unless the context otherwise requires:

1. "Business establishment or premises" means the real property and improvements from which an enterprise or organized undertaking is conducted regularly for profit.
2. "Entertainment", for purposes of A.R.S. § 4-244.05 only, means any form of amusement including, but not limited to, a performance of theater, dance or opera, musical concerts, motion pictures, videotapes, audiotapes, radio, television, carnivals, games of chance or skill, shows, lectures, or sports events.
3. "Food" means any edible substance for the nourishment of the body and consists of hot fare commonly ordered at lunch or dinner prepared at the premises.
4. "Membership fee" or "cover charge" means any consideration, direct or indirect, paid to the business establishment by patrons to gain entry.
5. "Minimum purchase" or "rental requirement" means an amount of money or other consideration required to be paid by patrons of the business establishment as a condition to enter or remain on the premises.
6. "Goods or services" includes all types of commodities, stock, or wares, and any method of providing the use of something needed or desired.
7. "Incidental convenience" means the goodwill the business receives from permitting patrons to possess and consume a minimal amount of spirituous liquor while they are present to obtain the goods or services regularly offered to all patrons.

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8. ~~"Small restaurant" means a public eating place which has facilities for keeping, preparing, and cooking foods for lunch or dinner and accommodations to provide food service for up to 40 persons.~~
9. ~~"Catering establishment" means any premises available for hire for a particular function, occasion, or event and which furnishes food and service for up to 300 persons.~~
10. ~~"Association" means an organization of persons having common interests and purposes, established as a nonprofit corporation or fraternal and/or benevolent society, which owns, leases or occupies a premises used exclusively for the organization's purposes, which operates for recreational, social, patriotic, political, benevolent, or athletic purposes, and which has accommodations for less than 300 persons.~~
11. ~~"Private social function" means any occasional communal affair, gathering, or party occurring at a business establishment is limited to selected, invited guests.~~
12. ~~"Front entrance" means the door commonly used by the general public as entrance to an establishment.~~

R19-1-202. Intrastate shipping requirements Repealed

~~No person, corporation, partnership or concern, whether or not licensed under the provision of Title 4, A.R.S., shall ship or offer for shipment or transportation to any point within this state from any other point within the state, any container, package or parcel, containing spirituous liquors unless said container, package or parcel shall in a conspicuous place show the name of the consignor or shipper and the name and address of the consignee or addressee in an equally conspicuous place showing that said container, package or parcel contains spirituous liquor. All of the aforesaid requirements shall be in the English language.~~

R19-1-203. Intrastate shipping requirements Repealed

~~With the exception of beer, no spirituous liquor shall be transported in wholesale from the place where sold for delivery to the purchaser unless the person in charge of the vehicle in which such spirituous liquors are to be transported shall, during the transportation, have in his possession a bona fide bill or memorandum from the seller to the purchaser showing the name and address of the seller and the purchaser and the quantity and character of the beverages sold and transported. Upon the demand of any person having the authority of a police officer, constable or sheriff, the person in charge of such transportation shall exhibit the bill or memorandum.~~

R19-1-204. Interstate Shipping, Importation, Labeling, Solicitation, Advertising Repealed

- ~~A. No person, corporation, partnership or concern shall ship or offer for shipment or transportation to any place within this state from any place without this state any container, package or parcel containing spirituous liquor including beer and wine, unless the same shall be consigned to a licensed Arizona spirituous liquor wholesaler.~~
- ~~B. Nothing in this rule shall be construed to interfere with through interstate shipments of spirituous liquors, including beer and wine, originating outside the state and destined to points in other states, when passing through this state in the custody and under the control of a duly authorized common carrier or transportation company.~~
- ~~C. No person shall ship or introduce into this state any spirituous liquors, including beer and wine, unless such spirituous liquors shall be, from the time they are shipped or introduced into this state until they are delivered to the consignee, in the possession of a duly authorized common carrier or transportation company, except that licensed Arizona wholesalers may transport spirituous liquors for themselves in vehicles owned, leased or rented by such wholesalers when authorized to do so by the Director.~~
- ~~D. No person, common carrier or transportation company or any other concern shall bring, ship, transport or introduce into this state in any manner whatsoever any spirituous liquors, including beer and wine, unless they are duly consigned to a bona fide Arizona spirituous liquor wholesaler having a license to sell or traffic in at wholesale the particular spirituous liquors so transported and introduced.~~
- ~~E. No person, common carrier or transportation company shall deliver any interstate shipment consisting of any parcel package or container of any description containing spirituous liquors, including beer and wine, to any premises other than those premises described and set forth in the license of a duly licensed Arizona spirituous liquor wholesaler, licensed to sell or traffic in the particular liquor so delivered.~~
- ~~F. No manufacturer, distiller, brewer, vintner or wholesaler or any officer, director, agent or employee of any such business directly or indirectly or through an affiliate shall sell, ship or deliver for sale or shipment or receive or remove from customs custody for consumption any spirituous liquors, including beer and wine, in bottles, unless such products are bottled, packaged, and labeled in conformity with the labeling regulations prescribed by the Federal Alcoholic Administration or any other regulations adopted by the Federal Alcoholic Administration or any other regulations adopted by the government of the United States, officer, bureau, or agency thereof. Any amendments or changes in the Federal Alcohol Administration Act or any other regulations adopted by the government of the United States, officer, bureau or agency thereof pertaining to labeling are hereby made a part of this rule without further adoption by the Department.~~
- ~~G. No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.~~
- ~~H. No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules of the~~

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Director which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.

- I.** Nothing contained in subsections (G) or (H) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier, or distributor.

R19-1-206. Inducements, Prohibited Repealed

No on-sale retail licensee shall directly or indirectly offer or furnish any gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements wherein the purchase or consumption of any spirituous liquors, including beer and wine, is required to become eligible to receive such gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements. It is provided, however, that nothing herein contained shall prohibit on-sale retail licensees from furnishing advertising novelties of nominal value or services which are customarily trade practices, so long as such furnishing is not contingent upon the purchase or consumption of spirituous liquors or any other alcoholic beverage.

R19-1-207. Bottles, Reuse or Refilling Prohibited Repealed

No liquor bottle or other container authorized by the laws of the United States or any agency thereof shall be reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other such authorized container, be increased by the addition of any substance.

R19-1-208. Hotel/Motel/Restaurant Requirements Repealed

A Hotel/Motel licensee and a Restaurant licensee must maintain complete restaurant services as defined under A.R.S. §§ 4-205.01, and 4-205.02, continually during the hours of selling and serving spirituous liquors. Restaurant services, as defined under these statutes, is compulsory to 10 p.m. daily if any spirituous liquors are to be sold and served to the legal hours. A requested meal which is refused during these hours will constitute sufficient evidence that the licensed business has ceased to operate as a bona fide restaurant.

R19-1-209. Tax requirements Repealed

No licensed wholesaler or retailer shall have in his possession or sell any spirituous liquors on which the state luxury taxes have not been accounted for as provided by law and upon which all federal taxes imposed by law have not been paid.

R19-1-210. Sign Limitations Renumbered

R19-1-211. Draught beer signs Repealed

Every licensee who shall dispense any draught beer shall, upon the faucet, spigot or outlet from which said beer is drawn, attach and keep posted a clear and legible notice, placard or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of such draught beer so dispensed by such licensee, and such notice, placard, or marker shall be so situated as to be clearly legible for a distance of at least ten feet from such spigot, faucet or outlet to a person with normal vision, and such notice, sign, or placard shall at all times be so situated as to be clearly legible from the place where such licensee serves any customer or consumer of such beer, and provided further that if such faucet, spigot, or other drawing device is in a location not within the room of the place of service and consumption of such beer, then and in that event there shall also be kept posted a similar notice, placard or marker in the place of service and consumption of such beer which shall truthfully state and indicate only the kinds and brands of draught beer actually on sale in the premises of said licensee.

R19-1-212. Advertising, Misleading Repealed

No licensee shall label for sale any spirituous liquor which is dispensed through equipment that would directly or indirectly lead the public to believe they are purchasing a brand, grade, or class of spirituous liquor, including beer and wine, which is actually not being sold or used.

R19-1-214. Prohibited Acts Repealed

- A.** A licensee shall not permit, on the licensed premises, an employee or other person to:
1. Expose any portion of his or her anus, vulva, or genitals;
 2. Grope, caress or fondle, or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of any other person with any part of the body; or
 3. Perform acts of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.
- B.** The provisions of this Section are severable. If any provision of the Section or the application of the Section to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Section that can be given effect without the invalid provision or application.

R19-1-215. Obscene Films, Pictures Prohibited Repealed

No licensee shall permit, on the licensed premises, the showing of film, slide pictures, or any other electronic reproduction depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any

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~~sexual acts which are prohibited by law;~~

- ~~2. Any person, being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;~~
- ~~3. Scenes wherein a person displays any portion of the areola of the female breast or any portion of his or her pubic hair, anus, vulva, or genitals; or~~
- ~~4. Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.~~

R19-1-216. Age Restrictions Repealed

No licensee, or employee thereof, shall employ a person under the age of 19 as an exotic entertainer. This rule shall be effective January 1, 1991.

R19-1-217. Display of License Repealed

All licensees shall display their liquor license in a conspicuous place readily available for inspection by any peace officer, distributor, or wholesaler.

R19-1-218. Records, Keeping of Repealed

All licensees shall keep for a period of not less than 2 years all invoices, records, bills and other papers and documents relating to the purchase, sale and delivery of alcoholic beverages. Such records and papers shall be kept in such conditions of storage as to be easily accessible to the Director or any peace officer designated by the Director for examination or audit.

R19-1-219. Storage on Unlicensed Premises Repealed

No licensee shall have consigned to him, receive or accept the delivery of or keep in storage any spirituous liquors upon any premises other than those described in his license without first having obtained written authorization from the Director.

R19-1-220. Liquors other than authorized by license Repealed

No licensee, either through himself or through an agent, shall sell, solicit, or receive an order, keep or expose for sale, deliver for value, peddle, keep with intent to sell or traffic in or have for any purposes upon his licensed premises any spirituous liquors other than those set forth in his license.

R19-1-221. Retail Delivery of Spirituous Liquor Repealed

A. Definitions:

- ~~1. "Delivery" means the delivery of spirituous liquor pursuant to A.R.S. § 4-203(M) and this rule.~~
- ~~2. "Identification" means an unexpired driver's license issued by any state, an identification license issued pursuant to A.R.S. § 28-421.01, an armed services identification card or a valid unexpired passport showing a date of birth, with a photograph of the person named, on the identification.~~
- ~~3. "Licensee" means a retail licensee permitted to deliver spirituous liquor pursuant to A.R.S. § 4-203(M) or an employee of such licensee.~~
- ~~4. "Time of delivery" means when the person to whom delivery is made obtains physical possession of the spirituous liquor.~~
- ~~5. "Title 4" means Title 4 of the Arizona Revised Statutes and all rules under said Title.~~

B. ~~A licensee shall make a record of delivery at the time of delivery on a form approved by the Department. The record of delivery shall be retained by the licensee for at least two years.~~

C. ~~The form shall include:~~

- ~~1. The licensee's business name, address and liquor license number;~~
- ~~2. The date and time of delivery;~~
- ~~3. The address where delivered;~~
- ~~4. The type and brand of spirituous liquor delivered;~~
- ~~5. The printed name and signature of the person making delivery;~~
- ~~6. The printed name and signature of the person accepting delivery;~~
- ~~7. The type and serial number of the identification, and date of birth, for the person accepting delivery.~~

D. ~~A licensee making delivery shall be liable for any violation of Title 4 in connection with such delivery with special emphasis on the following:~~

- ~~1. Delivery shall only be made by a person at least 21 years old.~~
- ~~2. Delivery shall only be made during the hours of lawful service of spirituous liquor.~~
- ~~3. Delivery shall not be made to an intoxicated or disorderly person.~~
- ~~4. Delivery shall only be made after identification has been shown by the person accepting delivery, the identification shows the person is of legal drinking age, and the information required to be recorded by this rule has been recorded.~~
- ~~5. Delivery shall not be made to the licensed premises of a retailer.~~

E. ~~A licensee making delivery shall refuse to complete a delivery at any time prior to the time of delivery, if the licensee believes such delivery would constitute a violation of Title 4.~~

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R19-1-222. Suspension, Adherence to Rules of Repealed

During the suspension of a license, the licensee shall not allow, permit, or suffer the sale, service, delivery, or consumption of any spirituous liquor on or about the licensed premises, nor order or receive delivery of any spirituous liquor. The notice of suspension shall be prominently displayed on the premises at all times during the period of suspension.

R19-1-223. Closure Due to Violence Repealed

A licensed place of business may be required to close its doors and stop sales of alcoholic beverages to the public or allow any person on the premises, with the exception of the owners, employees and officers of the law, during the time that it may appear to the Director that violence might occur.

R19-1-224. Seizure, Liquors Repealed

Any spirituous liquors that shall be imported, transported, stored, sold or offered for sale, kept with the intent to sell or traffic in or be used in any manner whatsoever contrary to the law or to the rules of the Director or the board shall be subject to seizure by any peace officer.

R19-1-225. Credit Law Exception Repealed

Wholesalers, distillers, brewers, and vintners licensed by this Department making sales of spirituous liquor to other licensed wholesalers, distillers, brewers and vintners shall be exempt from the credit restriction of A.R.S. § 4-242. The intention of this rule is to permit such licensees the same privileges as out of state licensees and to prevent discrimination against Arizona licensees in accordance with the established trade customs in this state.

R19-1-226. Commercial Coercion and Bribery Repealed

A. It shall be unlawful for a wholesaler, distiller, vintner, brewer, or importer to induce a retailer to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons through any of the following means:

1. By furnishing, giving, renting, lending, or selling to a retail licensee, articles of primary utilitarian value including, but not limited to, the following: clocks, service lamps, ash trays, coasters, napkins, beer mats, book matches, menu cards, folders, meal checks, container mats, back bar mats, thermometers, jiggers, stirring spoons, pouring spoons, glasses, glassware, or any other item potentially useful to the retailer in the conduct of his or her business except as provided elsewhere in these rules.
2. By furnishing financing or credit for the retail licensee to acquire or provide any part of the cost of equipment used or useful to a retail licensee through the sale of a product or otherwise.
3. By providing any service, including the stocking and pricing of merchandise, to a retail licensee; provided, however, that the practices set forth in subsection (B) of this rule shall not be unlawful.
4. By paying or crediting a retail licensee for any promotion, advertising, displaying, public relations, or distribution services or by participating or sharing with a retail licensee any promotion or advertising costs through any media.
5. By directly or indirectly guaranteeing a loan or repayment of a financial obligation to a retail licensee or by providing any monetary assistance in any form as an aid to a retail licensee.
6. By directly or indirectly entering into any form of credit transaction with a retail licensee.
7. By directly or indirectly engaging in any practice requiring a retail licensee to take and dispose of a quota of spirituous liquors.
8. By directly or indirectly engaging in practices promising or granting a retail licensee a bonus, premium or other compensation by a distillery, vintner, brewery, rectifier, blender, or other producer or the wholesaler.

B. The following practices are not unlawful inducements as defined by A.R.S. § 4-243(2)(b):

1. Stocking a limited supply of spirituous liquors in what is commonly known as "cold box".
2. Rotating spirituous liquors.
3. Furnishing advertising novelties of nominal value, such as key chains, sports schedules, recreation guides, cocktail specialty books, or other items which are not directly utilized in the operation of a retail licensee's business by the wholesaler to the retailer.
4. Furnishing on-sale retail licensees with equipment necessary to operate a draft box and servicing and repairing those items of equipment to retain the quality of the product.

R19-1-227. Microbrewery/Retail Repealed

For purposes of A.R.S. § 4-243, a microbrewery is considered an "other producer".

R19-1-228. Exceptions to the General Rule Renumbered

R19-1-229. Non-alcoholic Malt Beverages, Wines, and Cocktail Mixers Repealed

Malt products, wines, and cocktail mixers, that are non-alcoholic, may only be sold to retailers under the same rules that apply to the sale of spirituous liquors. For purpose of this Section "cocktail mixers" shall mean pre-prepared liquid or solid mixtures marketed primarily for mixing with spirituous liquor to prepare a beverage.

R19-1-230. Tapping Equipment, Furnishing, Selling, and Servicing Repealed

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~~A. Beer manufacturers may sell to beer wholesalers and beer wholesalers may furnish to on-sale retail licensees the following items of equipment in the case of either an initial installation for a new account or a change over of equipment from one tapping system to another. Such equipment shall remain the property of the wholesaler.~~

~~1. Approved equipment systems:~~

<i>Peerless</i>	<i>Golden Gate</i>
a. Tap Rod	a. CO₂ Hose
b. Valve	b. Beer Hose
c. Beer Hose	c. Couplings
d. CO₂ Hose	d. Vent
e. Washers	e. Taps
f. Couplings	f. Valves (Golden Gate)
g. Clamps	g. Clamps
	h. Washers

<i>Jet Western</i>	<i>Hoff Stevens</i>
a. Jet Tap Assembly	a. CO₂ Hose
b. Draw Tube	b. Beer Hose
c. Beer Hose	c. Couplings
d. CO₂ Hose	d. Vent
e. Tail Pieces	e. Clamps or Wire
f. Shut-off Valve	f. Washers
g. Washers	
h. Clamps	

~~2. Other equipment systems Manufacturers may qualify other tapping systems by submitting the trade name and collateral apparatus to the Department for approval.~~

~~B. Beer wholesalers may sell to on-sale licensees for cash only the following items of equipment at a price not less than the cost for which the wholesaler purchased the equipment:-~~

- ~~1. CO₂ Gas;~~
- ~~2. CO₂ Regulators;~~
- ~~3. Faucets;~~
- ~~4. Shanks or Bent Tubes;~~
- ~~5. Air Distributors;~~
- ~~6. Blower assembly, beer switches, complete faucet standard, drip pan, P.V.C. pipe, or any item that is necessary to prepare a draught system for proper operation.~~

~~C. A wholesaler may replace, at no charge to the retailer, bonnet washers, friction rings, valve stems, and coupling gaskets.~~

~~D. If 1 wholesaler is splitting an account with another wholesaler, the wholesaler initiating the split will supply, if necessary, the inline regulator which will remain the wholesaler's property and will be removed if the account is discontinued.~~

~~E. The wholesaler may maintain periodic cleaning schedules of onsale retailers' draught equipment and may sell to the retailer any sanitizing materials utilized in the cleaning of draught beer equipment, at not less than cost.~~

R19-1-231. Foodstuffs Repealed

~~A producer/wholesaler may sell foodstuffs to a retailer at a price agreed upon, but not less than the cost to the producer/wholesaler.~~

R19-1-232. Broken Package Prohibited Off-sale Premises Repealed

~~No offsale retailer shall have upon his licensed premises any broken package of spirituous liquor, as defined by A.R.S. § 4-101. This rule applies to the actual container and not to the shipping case.~~

R19-1-233. Underage Persons on Licensed Premises Repealed

~~A. In addition to the exceptions in A.R.S. § 4-244 (23) regarding underage persons on licensed premises, underage persons may be on the premises of an on-sale retail licensee pursuant to subsections (B) and (C):~~

~~B. Licensed premises with an occupancy of 1,000 or more persons, as determined by the fire marshall, wherein the primary~~

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purpose is not to sell spirituous liquors, that show live sporting events or live concerts where the audience is engaged in viewing such entertainment, may allow underage persons on the premises. The licensee may sell spirituous liquor to persons who are 21 years of age or older, pursuant to A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1. The Director may require a security plan to be approved by the Department to ensure that the underage persons do not purchase, possess or consume spirituous liquor on the premises.

- C.** Licensed premises with an occupancy of fewer than 1,000 persons, as determined by the fire marshal, wherein the primary purpose is not to sell spirituous liquors, may allow underage persons on the premises for the purpose of viewing live sporting events or live concerts if during the time that underage persons are on the premises, underage persons are separated by a physical barrier that prevents them from entering portions of the premises where spirituous liquor is sold, possessed, or served; and prevents underage persons from receiving, purchasing, possessing, and/or consuming spirituous liquor. With the exception of A.R.S. § 4-244(23)(a), spirituous liquor is prohibited in the section devoted to underage persons.

R19-1-234. ~~Violence, Report of~~ Repealed

A licensee upon whose licensed premises an act of violence occurs shall make a detailed, written report of such act of violence to be hand delivered or deposited in the U.S. Mail within 7 days of the act of violence to the Department, unless the act of violence was previously reported to a law enforcement agency pursuant to A.R.S. § 4-244(37). A licensee shall also report in the same manner, acts of violence involving patrons entering or leaving the licensed premises which occur immediately adjacent to the licensed premises when the licensee knew or reasonably should have known of such acts of violence.

R19-1-235. ~~Fetal Alcohol Sign Display~~ Repealed

A. Definitions:

1. "Liquor" means spirituous liquor as defined in A.R.S. § 4-101.27.
2. "Room" means the licensed premises as defined in A.R.S. § 4-205.01(D).
3. "Sign" means the warning sign required by A.R.S. § 4-251.

B. Placement of Signs:

1. Each on sale retail liquor licensee shall conspicuously post a sign within 20 feet of each register where sales of liquor are made, or behind the bar.
2. In addition to the requirements of R19-1-214(B)(1):
 - a. A Hotel-Motel licensee shall post at least 1 state supplied sign on the inside of the door of each room containing a mini-bar, or offering alcoholic beverages through room service, or in the alternative, at their own expense, display the required warning in a space measuring at least 1 inch by 2 inches on a room service bar menu, or mini-bar cost list, placard, folder, advertisement tent, or similar item placed in each room so as to be readily observable.
 - b. A retail licensee using a mobile service device for the sale of liquor shall display the sign on such mobile serving device.
3. Each off sale liquor licensee shall conspicuously post a sign where a customer obtains the liquor.

ARTICLE 3. ~~UNLICENSED PREMISES DEFINITIONS AND LICENSING TIME-FRAMES~~ REPEALED

R19-1-302. ~~Filing of Legal or Equitable Interest~~ Repealed

- A.** In accordance with A.R.S. § 4-112(B)(3), all persons having a legal or equitable interest in a spirituous liquor license shall file with the Director a statement of such interest on a form prescribed and furnished by the Department. Notice of termination of such interest shall be filed in writing by the interest holder upon final determination of the interest. Interest holders shall immediately file amended statements to reflect any change in the current statements presently on file.
- B.** The Director may periodically, by notice to the holders of interests filed under this rule and under A.R.S. § 4-112(B)(3), require such interest holders to verify in writing to the Director that the statement presently on file is currently correct and accurate and, if not, such interest holder shall immediately file an amended statement or termination notice. If no response is received by the Director within 30 days of the mailing of such notice, the interest shall be deemed terminated.
- C.** All persons having filed statements of interest in accordance with this rule and the statute shall be given notice of all matters, actions, or both, affecting or regarding the spirituous liquor license in which they have an interest.
- D.** Notice as required in subsection (C) shall be fully effective by mailing a copy thereof by registered or certified mail in a sealed envelope with postage prepaid and addressed to such person at his address as shown by the statement on file with the Director. Service of such notice shall be complete when deposited in the U.S. Mail.
- E.** All interest holders who are entitled to receive notice as provided for in this Article shall have the right to appear and participate in person and through counsel in any hearing held before the Board or Director affecting the subject spirituous liquor license as his interests may appear.
- F.** The statement of legal or equitable interest shall allow the person filing said statement to participate in the proceedings and shall not in any manner bind the Director or the state Liquor Board concerning the matter under consideration.

R19-1-303. ~~Retail Agents~~ Repealed

The following shall apply in all cases where 2 or more licensees pool their purchases for alcoholic beverages from a whole-

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~~salers:-~~

1. ~~Definition: For purposes of this rule, the term "Agent" means Registered Retail Agent as defined in A.R.S. § 4-101(28).~~
2. ~~For purposes of this rule, the term "cooperative purchases" shall indicate that 2 or more retailers have entered into an agreement whereby 1 of them is designated the agent for each of them for the purpose of purchasing spirituous liquors.~~
3. ~~Any agreement between a retailer and agent to make "cooperative purchases" shall be in writing on a form prescribed by the Director. The Agreement must be filed with and approved by the Department. The Agreement should provide that, upon consummation of the sale by the wholesaler, title to the merchandise so purchased shall vest in each of the parties to the Agreement, in accordance with his proportionate share of the order. The Agreement shall be signed and dated by each party to the Agreement. Each party to the Agreement shall have a copy of the Agreement available for inspection by any employee of the Department or any peace officer. The agent will be provided with a Certificate of Registration which shall be displayed upon the request of any employee of the Department, any peace officer, or any spirituous liquor licensee. The agent shall file a listing of the names, business addresses and license series of those licensed retailers who have authorized the agent to purchase on their behalf.~~
4. ~~All orders for "cooperative purchases" from a wholesaler shall be placed by the agent, and payment for that order shall be made by such agent. The agent shall be responsible for the fiscal operation of all "cooperative purchases". There shall be no exchanges of merchandise after delivery has been made by the wholesaler. Bona fide delivery errors are excepted if immediately recognized and documented.~~
5. ~~A wholesaler shall comply with all invoice and recordkeeping procedures in accordance with R19-1-222, prevailing federal regulations and requirements of the Department of Revenue. The wholesaler shall prepare a master invoice for the agent of each "cooperative purchase" which shall detail the individual purchases made by each member of the "cooperative purchase", a copy of which must be furnished each member. The master invoice shall dictate the specific discount for each "cooperative purchase".~~
6. ~~Agents shall follow recordkeeping procedures so as to account for all orders and purchases and deliveries to retailers and describe any storage of spirituous liquors. Such records must relate directly to the orders, purchases, and deliveries made by each retailer represented by the agent. Agents shall maintain in accordance with R19-1-222, all activity reports and invoices, and any other records requested by the Director, and shall make such available for inspection upon request.~~
7. ~~Agents shall not store spirituous liquors on any premise other than a licensed retail establishment without 1st obtaining written permission from the Director. Wholesalers may deliver to an agent's licensed premises or any off-premise warehouse storage facility of the agent which has been approved by the Director. The agent may deliver the merchandise to the individual retailer.~~
8. ~~The Director may cancel, after a hearing pursuant to A.R.S. § 4-210, any Certificate of Registration issued to an agent for failure to comply with this rule.~~
9. ~~The agent may charge members of the cooperative a fee for services rendered to retailers belonging to the cooperative association. Under no circumstances may the agent change the price quoted on the wholesaler's invoice.~~
10. ~~Agent shall file with the Department a list of the names, business addresses and license series for those retailers who have authorized him to act on their behalf. Any changes in the retailers involved in this agreement must be reported to the Department within 10 days of the change.~~

R19-1-304. Standards for Alcohol Training Programs Repealed

- ~~**A.** The standards established by this rule shall be minimum standards with respect to the subject matter to be taught and the time allotted for teaching the subject matter.~~
- ~~**B.** Nothing in this rule prohibits the teaching of additional subject matter or allotting additional time for the teaching of any subject matter.~~
- ~~**C.** A proposed training program shall be submitted to the Department for initial approval. The Department may, at any time, review any approved training program to determine that the program continues to meet minimum standards.~~
- ~~**D.** Training shall be conducted by an independent trainer except that licensees with 20 or more licenses may submit an in-house training program.~~
- ~~**E.** Training for On-sale Retail Licenses shall consist of:

 1. ~~The Regulation of Alcoholic Beverages (40 minutes):~~
 - a. ~~Role and Function of Arizona Department of Liquor Licenses;~~
 - b. ~~Types of On-sale Licenses;~~
 - c. ~~Potential Risks to the Business/Licensee;~~
 - d. ~~Potential Risks to the Employee.~~
 2. ~~Laws Regarding Establishments Serving Alcoholic Beverages (20 minutes):~~
 - a. ~~Licensed Premises;~~
 - b. ~~Entertainment Within Licensed Premises;~~
 - c. ~~Violence on Licensed Premises.~~~~

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3. Laws Regarding Age (50 minutes):
 - a. Legal Age in Arizona;
 - b. Identification of Legal Age;
 - c. Recognizing Invalid Identification;
 - d. Recording Identification;
 - e. Underage Persons in Bars and Restaurants;
 - f. Refusing an Underage Customer.
 4. Laws Regarding Intoxication (60 minutes):
 - a. Sale to Intoxicated Persons;
 - b. Service Limitations for Alcoholic Beverages;
 - c. Knowledge of Alcohol and its Effects;
 - d. Monitoring Customer Consumption and Intervention Techniques;
 - e. Refusing an Intoxicated Customer.
 5. Laws Regarding Legal Hours of Sale and Laws Regarding the Payment of Alcoholic Beverages (20 minutes).
 6. Management Requirement Policies Regarding Alcoholic Beverages (40 minutes):
 - a. Purchase and Storage Requirements;
 - b. Management Requirements;
 - c. Employee Requirements;
 - d. Records Requirements;
 - e. House Policies;
 - f. Marketing Strategies.
 7. Course Summary and Evaluation (10 minutes):
 - a. Summary Discussion;
 - b. Post Test and Review;
 - c. Trainee Certification.
- F. Training for Off-sale Retail Licenses shall consist of:**
1. The Regulation of Alcoholic Beverages (15 minutes):
 - a. Role and Function of Arizona Department of Liquor Licenses;
 - b. Potential Risks to the Business/Licensee;
 - c. Potential Risks to the Employee.
 2. The Sale to Underage Customers (20 minutes):
 - a. Legal Age in Arizona;
 - b. When to Require Identification;
 - c. Acceptable Forms of Identification;
 - d. Recognizing Invalid Identification;
 - e. Use of Registration Book;
 - f. Refusing an Underage Customer.
 3. The Sale to Intoxicated Customers (20 minutes):
 - a. Sales to Intoxicated Customers;
 - b. Recognizing an Intoxicated Customer;
 - c. Refusing an Intoxicated Customer.
 4. The Sale of Broken Packages and On-premise Consumption (10 minutes):
 - a. Off-sale Premise Restrictions;
 - b. Advising Customers of Off-sale Consumption.
 5. The Sale of Alcoholic Beverages During Restricted Hours (10 minutes):
 - a. Legal Hours of Sale in Arizona;
 - b. Refusing an After-hour Sale.
 6. Second Party Sales of Alcoholic Beverages (15 minutes):
 - a. Second-party Purchases;
 - b. Recognizing Second-party Purchasers;
 - c. Refusing Second-party Sales.
 7. Handling Special or Problem Situations (20 minutes):
 - a. Recognizing Problem Situations;
 - b. Employee Responsibilities in Problem Situations.
 8. Course Summary and Evaluation (10 minutes):
 - a. Summary Discussion;
 - b. Post Test and Review;
 - c. Trainee Certification.
- G. Persons conducting approved training programs shall, for a minimum of two years, retain records of persons who have**

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satisfactorily completed the program. The record shall include:

1. Name of the person completing the training;
2. Date the training was completed;
3. Type of training (on-sale, off-sale);
4. If the person is employed by a licensee, the name of the licensee by whom the person is employed.

H. Upon satisfactory completion of training, the trainer shall present a certificate of completion to the trainee. The certificate shall list the information required by subsection (G)(1) – (4) of this rule and include the name of the program and the signature of the trainer.

R19-1-305. Change of Address Repealed

When a street number or other official designation of address of the licensed premises is changed, the licensee shall notify the Department on a form prescribed by the Director within 15 days of such change. The license shall be surrendered upon the issuance of a replacement license which reflects the current address of the licensed premises.

R19-1-306. Name Change Requirements Repealed

No licensee shall change the name of his licensed business without first notifying the Department on a form prescribed by the Director. The license shall be surrendered upon the issuance of a replacement license which reflects the current name of the licensed premises.

R19-1-307. Closing Notice of Repealed

- A.** The licensee shall notify the Department on a form prescribed by the Director if a license is not used for a period of time over 30 consecutive days. The licensee shall notify the Department within 30 days from the date the license was last used.
- B.** The licensee shall notify the Department on a form prescribed by the Director prior to placing the license back into use.
- C.** No licensee shall leave his licensed place of business, while under normal operating conditions, in the control of another, over 30 days without first notifying the Department and complying with the required filing of a manager's agreement or letter of notification.

R19-1-308. Surrender of Licenses/Interim Retail Permits Repealed

- A.** Surrender of retail licenses for purposes of compliance with the interim permit requirements of A.R.S. § 4-203.01 shall be accomplished by any of the following:
 1. The license is delivered to the Department by mail or in person with a notarized signature of surrender by the license holder or holders; or
 2. In the event the license is lost or cannot be located, the license holder or holders indicates in a signed, notarized statement the surrender of the license; or
 3. The license holder or holders has abandoned the licensed premise and the license with no intention of returning as demonstrated by the following:
 - a. The premises have been vacant during normal operating hours for a period of 30 days; and
 - b. The licensee has failed to notify the Director of his or her intention to suspend the operation under the license as required by R19-1-225; and
 - c. The licensee cannot be located by the Department at his or her last known address as reflected in the Department's records; and
 - d. The person who delivered the license to the Department has submitted a notarized statement asserting that, to the best of his or her knowledge, the licensed premises have been vacant during normal operating hours for a period of 30 days and the license holder or holders has abandoned the license and licensed premises.
- B.** The Director may deny the surrender of any license, regardless of the method of surrender, if:
 1. The licensee is delinquent in payment of taxes to any municipality or the state or any political subdivision thereof; or
 2. A complaint has been filed and is pending against the licensee alleging a violation of any provision of A.R.S. Title 4, or any rule thereof; or
 3. The ownership of the license is contested; or
 4. Civil proceedings involving the liquor license are pending before any Arizona or federal court.

R19-1-309. Special Event License Repealed

- A.** An applicant for a Special Event License shall make application on a form prescribed by the Department. The application form shall be filed with the local authority for approval or denial. Applications approved by the local authority will be reviewed by the Director. If the applicable requirements of A.R.S. Title 4 are met, the Director shall issue a Special Event License. The application form may be approved and validated by the Department and a copy returned to the local governing authority and the applicant.
- B.** Qualifying organizations as defined in A.R.S. § 4-203.02(B) may be granted a Special Event license for no more than 10 days in a calendar year. Events shall be held on consecutive days and at the same location or additional licenses will be required. A Special Event License authorizes the sale of spirituous liquor for the period authorized on the and is automatically terminated upon closing of the last day of the event or the expiration of the license, whichever occurs 1st.

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R19-1-310. Criteria for Issuing Restaurant License Repealed

The following factors are to be considered by the Department in determining when a protest will be made against a restaurant license application. Any combination of four or more factors may result in a Department protest:

1. The number of cooks, food preparation personnel, waiters, or waitresses do not appear to be a sufficient number to prepare and provide the proposed restaurant services.
2. Restaurant equipment is not of sufficient grade or appropriate to the offered menu.
3. The proposed menu is not of the type and price likely to achieve 40% food sales.
4. There is the presence of a jukebox, live entertainment, or dance floor on the premises.
5. There is the presence of a number of bar games and equipment, such as pool tables, dart games, big-screen televisions, or arcade-type games.
6. Use of a term in the establishment's business name, signage, or promotional material which places emphasis on alcohol consumption. Terms such as bar, tavern, pub, spirits, club, lounge, cabaret, saloon, and other names which denote liquor sales will be considered as indication of non-restaurant format.
7. More than 60% of the public seating area consists of barstools, cocktail tables, and similar types of seating, indicating that such area is used primarily for alcohol consumption.
8. Dinnerware and smallware including dining utensils are not compatible with the offered menu.

R19-1-311. Patio Outdoor Use Permission Repealed

No licensee shall serve or allow to be served any spirituous liquors, including beer and wine, to patrons seated at outdoor or patio tables within the boundaries of the licensee's property without obtaining written approval on an extension of premise application from the Department. This application will apply to a temporary extension of premise as well as a permanent extension of premise.

R19-1-312. Conveyance License, Application Posting Repealed

For the purpose of processing an application filed by a conveyance applicant, the posting of the application as provided by A.R.S. § 4-201, shall be accomplished by posting a copy of the application and notice to the public in a conspicuous place at the location where the conveyance applicant conducts its principal business in the state of Arizona.

R19-1-313. Interim Permit/Tax Violations Repealed

The Director may refuse to issue an interim permit or issue a license until arrangements have been made with the taxing authority to satisfy the payment of all delinquent taxes. Any arrangements must be verified in writing from the applicable taxing authority and submitted to the Director.

R19-1-315. Exemptions to A.R.S. § 4-244.05 Renumbered

R19-1-316. Public Facilities Exemption Repealed

Publicly owned and/or facilities operated by governmental entities ("Public Facility") are exempt from A.R.S. § 4-244.05 if such facilities meet all of the following conditions:

1. The possession or consumption of spirituous liquor is permitted only within the hours of noon to 10 p.m. as permitted by Arizona law, and is limited to no more than 10 hours per day;
2. The possession or consumption of spirituous liquor is permitted only as an incidental convenience to the person attending such public facility;
3. The maximum permitted occupancy of such public facility shall be 250,000.
4. A person attending such public facility shall possess no more than 24 ounces of beer, 6 ounces of distilled spirits or 6 ounces of wine per person to be consumed on the premises.
5. The Director's agent and/or any peace officer shall be empowered to enforce A.R.S. Title 4 to visit and inspect the public facility during business hours.
6. The public facility and/or its proprietor, manager, comptroller, controlling person or employee shall comply with the provisions of A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
7. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

R19-1-317. Licensing Time frames Repealed

The following time frames apply to licenses issued by the Department. The licensing time frames consist of an administrative completeness review time frame, a substantive review time frame, and an overall time frame as defined in A.R.S. § 41-1072:

1. Within the applicable administrative completeness review time frame set forth in subsection (5), the Department shall notify the applicant in writing when an application is incomplete. The notice shall specify what information or component is required to make an application complete.

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2. An applicant with an incomplete application shall supply the missing information within 30 days from the date of the notice or within such further time as the Director may specify, unless another time is specified by statute or rule. If the applicant fails to submit the missing information or component within the specified time period, the Department may deem the application withdrawn and close the file. Closing the file under this provision does not preclude the applicant from filing a new application.
3. Within the applicable overall time frame set forth in subsection (5), unless extended by written notification pursuant to A.R.S. § 4-201.01(B), or by mutual agreement pursuant to A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall serve the applicant with a written order containing justification for the denial and an explanation of the applicant's right to appeal.
4. For all types of liquor licenses, except Special Event and Wine Festival Licenses, the Director may extend the overall time frame as prescribed by A.R.S. § 4-201(B).
5. The licensing time frames are set forth in Table A.

Table A. Licensing Time frames Repealed

No.	License Type	Legal Authority	Administrative-Completeness-Review-Time-frame	Substantive-Review-Time-frame	Overall-Time-frame
1	In-State Producers	A.R.S. § 4-209	75 Days	30 Days	105 Days
2	Out-of-State Producers	A.R.S. § 4-209	75 Days	30 Days	105 Days
3	Domestic Microbrewery	A.R.S. § 4-205.04	75 Days	30 Days	105 Days
4	Wholesalers	A.R.S. § 4-209	75 Days	30 Days	105 Days
5	Government	A.R.S. § 4-205.03	75 Days	30 Days	105 Days
6	Bar	A.R.S. § 4-209	75 Days	30 Days	105 Days
7	Beer and Wine Bar	A.R.S. § 4-209	75 Days	30 Days	105 Days
8	Conveyance	A.R.S. § 4-209	75 Days	30 Days	105 Days
9	Liquor Store	A.R.S. § 4-209	75 Days	30 Days	105 Days
10	Beer and Wine Store	A.R.S. § 4-209	75 Days	30 Days	105 Days
11	Hotel-Motel	A.R.S. § 4-205.01	75 Days	30 Days	105 Days
12	Restaurant	A.R.S. § 4-205.02	75 Days	30 Days	105 Days
13	Domestic Farm Winery	A.R.S. § 4-205.04	75 Days	30 Days	105 Days
14	Club (Private)	A.R.S. § 4-205	75 Days	30 Days	105 Days
15	Out-of-State Winery	A.R.S. § 4-209	75 Days	30 Days	105 Days
	Wine Festival/Wine Fair	A.R.S. § 4-203.03	10 Days	20 Days	30 Days
	Special Event	A.R.S. § 4-203.02(B)	10 Days	20 Days	30 Days

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

[R13-72]

PREAMBLE

1. Articles, Parts, and Sections Affected

Rulemaking Action

Article 1	New Article
R19-1-101	New Section
R19-1-102	New Section
R19-1-103	New Section
R19-1-104	New Section
R19-1-105	New Section
R19-1-106	New Section
R19-1-107	New Section
R19-1-108	Renumber
R19-1-110	Renumber
R19-1-112	Renumber
R19-1-113	Renumber
Article 2	New Article
R19-1-201	New Section
R19-1-202	New Section
R19-1-203	New Section
R19-1-204	New Section
R19-1-205	New Section
R19-1-206	New Section
R19-1-207	New Section
R19-1-208	New Section
R19-1-209	New Section
Article 3	New Article
R19-1-303	New Section
R19-1-304	New Section
R19-1-305	New Section
R19-1-306	New Section
R19-1-307	New Section
R19-1-308	New Section
R19-1-309	New Section
R19-1-310	New Section
R19-1-312	New Section
R19-1-314	New Section
R19-1-315	New Section
R19-1-316	New Section
R19-1-317	New Section
R19-1-318	New Section
R19-1-319	New Section
R19-1-322	New Section
R19-1-323	New Section
R19-1-325	New Section
R19-1-326	New Section
R19-1-327	New Section
Article 4	New Article
R19-1-401	New Section
R19-1-402	New Section
R19-1-403	New Section
R19-1-404	New Section
R19-1-405	New Section
R19-1-406	New Section
R19-1-407	New Section
R19-1-408	New Section
Article 5	New Article
R19-1-501	New Section

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R19-1-502	New Section
R19-1-503	New Section
R19-1-504	New Section
R19-1-505	New Section
Article 6	New Article
R19-1-601	New Section
R19-1-602	New Section
R19-1-603	New Section
R19-1-604	New Section
Article 7	New Article
R19-1-701	New Section
R19-1-702	New Section
R19-1-703	New Section
R19-1-704	New Section
R19-1-705	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 4-112(A)(2) and (B)(1)

Implementing statute: A.R.S. §§ 4-101 et seq.

3. The effective date for the rules:

July 6, 2013

4. Citation to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 18 A.A.R. 3011, November 16, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2977, November 16, 2012

5. The agency's contact person who can answer questions about the rulemaking:

Name: Pearlette Ramos

Address: Department of Liquor Licenses and Control
800 W. Washington, 5th floor
Phoenix, AZ 85007

Telephone: (602) 542-9021

Fax: (602) 542-6799

E-mail: Pearlette.ramos@azliquor.gov

Web site: www.azliquor.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In response to a five-year-review report approved by the Governor's Regulatory Review Council on May 3, 2011, the Department is repealing existing rules in a related rulemaking and making new rules that are consistent with statute and agency practice. They are also making the rules clear, concise, and understandable and consistent with current rule writing standards.

An exemption from the rulemaking moratorium contained in Executive Order 2012-03 was granted in an e-mail from Steven Killian, policy advisor to Governor Brewer, dated September 25, 2012.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review any study relevant to the rulemaking. This rulemaking does not rely on scientific principles or methods.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

These new rules are replacing existing rules, which are being repealed in a related rulemaking. The content of the new rules is substantially similar to that of the rules being repealed. Most of the economic impact from regulation of the liquor industry, including fees and surcharges, results from legislative action.

The rulemaking contains some changes that will have minimal economic impact. These include:

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- Requiring an applicant to submit an application that contains no non-technical errors;
- Requiring that individuals who take a Department-approved training course take an examination;
- Requiring that the provider of a Department-approved training course allow course participants to evaluate the course and course instructor;
- Requiring that the provider of a Department-approved training course submit updated course materials to the Department annually;
- Establishing standards for a non-contiguous area of a licensed premises;
- Establishing standards for a restaurant to maintain records in auditable form; and
- Establishing several new fees that are specifically authorized by statute.

As with all law, unless specifically stated otherwise, the Department shall enforce these rules prospectively.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

Five Sections that appeared in the Notice of Proposed Rulemaking do not appear in this Notice of Final Rulemaking. They are:

- R19-1-302. Knowledge of Liquor Law; Responsibility;
- R19-1-313. Sign Limitations
- R19-1-320. Practices Permitted by a Producer or Wholesaler;
- R19-1-321. Practices Permitted by a Wholesaler; and
- R19-1-324. Standards for Exemption of an Unlicensed Business.

Because the Department cannot fulfill its statutory responsibility to regulate and license the manufacture, sale, and distribution of spirituous liquors in the interest of protecting the welfare, peace, temperance, and safety of the citizens of the state without having rules on the subject matter addressed by these five Sections, the Department removed four corresponding Sections from the companion rulemaking that repeals existing rules and placed those rules at the end of Article 1 in this rulemaking.

The Department intends to publish a Notice of Supplemental Proposed Rulemaking and submit it to Council in the near future. The Notice of Supplemental Proposed Rulemaking will complete the repeal of the rules that are being moved to the end of Article 1 in this rulemaking. It will also address comments received regarding the five Sections that appeared in the Notice of Proposed Rulemaking but do not appear in this Notice of Final Rulemaking.

Other non-substantive word-choice and format changes were made to clarify provisions. Additionally:

- A definition of “tapping equipment” was added to R19-1-101. The definition is consistent with the information that was already in R19-1-326;
- A clarifying subsection was added to R19-1-304;
- R19-1-301, Display of License, was removed from the rulemaking because the Department determined that the Section simply restated statute;
- Language was added to R19-1-305 to clarify that the provision regarding taxes applies only to a quota license;
- A subsection was deleted from R19-1-312(B) because it was determined to be burdensome and unnecessary;
- The phrase “a majority of the following” was added to R19-1-317(E) to provide flexibility to restaurant licensees and minimize economic impact on them;
- Subsection R19-1-319(A)(11) was amended to reflect that an item is not considered coercion or bribery if the expense of the item is deductible under the Internal Revenue Code;
- Subsection R19-1-319(A)(12) was divided to clarify that a volume-based price may differ for on-sale and off-sale licensees;
- Section R19-1-326 was changed to recognize that tapping equipment is used with spirituous liquors other than beer and at off-sale locations, and to update items that are part of tapping equipment; and
- For several Sections, the cited statutory authority was changed to ensure greater accuracy.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

The Department has worked on this rulemaking for six years. Stakeholders have participated in the process on numerous occasions. Stakeholder meetings were held throughout the state. Numerous comments were received during the formal comment period and at the oral proceeding on December 18, 2012. Written comments were submitted to the Department by:

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Arizona Restaurant Association (ARA),
 Arizona Wine Growers Association (AWGA),
 Bill Weigele,
 Beer and Wine Distributors of Arizona (BWDA),
 Distilled Spirits Council of the US (DSCUS),
 Nicholas Guttilla,
 Wine Institute (WI),
 Withey Morris, PLC; Camila Alarcon and
 Policy Development Group.

The comments, the Department's analysis, and the action taken follow: Comments regarding the Sections that will be re-noticed are not included. Those comments will be addressed in the Notice of Supplemental Proposed Rulemaking.

COMMENT	ANALYSIS	ACTION
R19-1-101: This Section should be amended to add a definition of "tapping equipment." (Guttilla)	The Department believed the information in R19-1-326 was sufficient regarding tapping equipment. However any chance for confusion needs to be avoided so the definition was added.	A definition of "tapping equipment" was added to R19-1-101.
R19-1-104(C): This subsection deals with shipments outside AZ to inside AZ. The cited statutes deal with Domestic Farm Wineries (DFWs) and Domestic Microbreweries (DMBs) that ship within AZ rather than from outside AZ. Therefore, the citations are inappropriate. (Guttilla)	By definition in A.R. S. § 4-101, both a domestic farm winery and a domestic microbrewery may be located outside AZ. This means they may indeed be shipping products from outside AZ into AZ. The citations are correct.	No change
R19-1-312(B): The language requiring a label on a faucet, spigot, or other dispensing outlet be readable from 10 feet is inconsistent with emerging industry trends and does not provide operators with needed flexibility to change brands. (ARA and Withey Morris)	The comment is correct.	The requirement regarding ten feet was deleted. The rule still requires that customers be able to determine the spirituous liquor dispensed.
R19-1-206: The items listed for qualification to operate a restaurant are too subjective. We would like to see the language in the current rule used. (ARA)	The items listed in R19-1-206 are the same as those in the current rule. The only difference is that the new rule is written in a manner consistent with current rule writing standards.	No change
R19-1-301(A): The indication that displaying a license within 20 feet of a point-of-sale cash register will be considered conspicuous should be removed. It is possible to display a license within 20 feet of a point-of-sale cash register and have it not be conspicuous. It is better to simply say "conspicuously." (ARA)	The comment is correct.	The indication that a license displayed within 20 feet of a point-of-sale cash register would be considered conspicuous was deleted. The license is still required to be displayed conspicuously.
R19-1-307(B): For consistency with A.R.S. § 4-244(32), cross reference the statute for an exception. (ARA)	The comment is correct.	The cross reference was added.

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R19-1-317(E): This requirement regarding maintaining restaurant records in a specific order is burdensome. The Department does not need all these records to determine whether a restaurant is deriving at least 40% of gross revenue from food. (ARA)	A.R.S. § 4-213(A) provides the Director with authority to require a restaurant licensee to submit to an audit of records to demonstrate compliance with the 40% standard. When conducting an audit, the Department is required to use generally accepted auditing standards. The Department has determined that to fulfill its statutory responsibility and reduce economic impact on the state's resources, it needs for a licensee to maintain records in a manner that makes them easily auditable.	The phrase "a majority of the following" was added to this subsection to provide restaurant licensees with some flexibility regarding the records.
R19-1-209(D): We ask that the Department reduce the overall time-frame for acting on an application for a wine festival or special event license. (AWGA)	The Department acts on these applications as quickly as possible and routinely makes a decision is less than the overall time-frame. However, because of the economic consequences of failing to comply with a time-frame, the Department believes it needs the flexibility provided by the current overall time-frame.	No change
R19-1-314: We would like to have this Section clarified to specify which inducements DFWs can offer. (AWGA)	The Section specifies that it applies to on-sale retailers. A DFW exercising on-sale privileges is included.	No change
R19-1-327: We assume the Department did not mean to make on-site tasting rooms at a DFW subject to this Section. (AWGA)	The comment is correct.	A clarifying subsection was added.
R19-1-103: Some of the items are burdensome and appear to put a training provider in position of offering legal advice. (Bill Weigle)	The comment is correct.	Minor word changes were made to subsections (A)(3)(a) and (a)(i) and (5)(a); (B)(11); and (B)(12)(a)(iii).
R19-1-313: There is no potential problem for commercial coercion involving interior signs. BWDA requests that interior signs be deleted from this rule. (BWDA)	The Department determined that the rule needs to continue to apply to both in interior and exterior signs. However, the manner in which the value of a sign is determined was clarified.	Language was added to clarify the manner in which the value of a sign is determined. This will enable the Department to calculate accurately the value of a sign.
R19-1-319(A)(12): This subsection appears to prohibit the long-standing industry practice of channel pricing. The subsection needs to distinguish between on-sale and off-sale channels. (BWDA)	The comment is correct.	The Department added subsection (A)(13), which mirrors subsection (A)(12) except that (A)(12) applies to on-sale licensees and (A)(13) applies to off-sale licensees. It was never the Department's intent to prohibit channel pricing.
Old rule R19-1-227: The content of this rule appears to have been inadvertently left out of the new rules. Please clarify that a DMB is an "other producer" for purposes of A.R.S. § 4-243. (BWDA and Withey Morris)	The Department believed R19-1-319 was clear. However any chance for confusion needs to be avoided so clarifying language was added.	The definitions of "domestic farm winery license" and "domestic microbrewery license" were amended to clarify that for the purpose of A.R.S. § 4-243, both are an "other producer."

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Wherever the phrase “producer or wholesaler” is used, add the phrase “or authorized agent.” (DSCUS)	The Department understands that a licensee may act through an authorized agent. Adding the phrase throughout the rules simply makes them less concise, which is contrary to current rule writing standards.	No change
R19-1-101: The definition of “reset” should be amended to comply with industry standards. (Guttilla)	The Department believes the suggested word, “adjusts,” encompasses the ideas in the definition as published in the NPR so the change is not substantial.	The suggested language was used.
R19-1-101: The definition of “cooler product” is broad enough to potentially create a conflict with products that are currently defined under federal law as other than standard or special natural wines. (Wine Institute)	The definition specifically says that a cooler product does not include a formula wine as defined at 27 CFR 24.10. The federal definition of formula wine includes an “other than standard” and “special natural wine.”	No change
R19-1-201(A)(7): This provision appears not to include the statutory exception that the agent of an out-of-state licensee does not have to be an Arizona resident. (Wine Institute and Policy Development Group)	The Department believed R19-1-201(A)(7) was clear. However any chance for confusion needs to be avoided so clarifying language was added.	The Department amended the language to cite the statute providing the exception.
R19-1-314: This Section uses the phrase “customary trade practice.” Please define the phrase. (Wine Institute)	The Department believes the phrase is sufficiently well understood in the industry without definition.	No change
R19-1-318(A): This subsection requires that a special event licensee conduct all dispensing, serving, and selling of spirituous liquor if the special event occurs at an unlicensed location. Please change this to allow a producer or wholesaler to engage in these activities at the special event. (Wine Institute)	When a special event occurs, the entity responsible for the location at which the special event occurs must be responsible for dispensing, serving, and selling spirituous liquor. When the special event occurs at an otherwise unlicensed location, the entity responsible is the special event licensee. The special event licensee may employ others to assist with this task, but the special event licensee must be responsible.	No change
R19-1-303: This Section prohibits a licensee from manufacturing spirituous liquor other than those authorized by the license. This appears to interfere with a licensee’s ability to engage in product development. Please delete “manufacture” from subsection (A) and “for any purpose” from subsection (B). (Withey Morris)	A.R.S. § 4-203(B) indicates that a license provides authority to “manufacture, sell or deal in spirituous liquors...” and requires a license to specify the spirituous liquors the licensee is authorized to manufacture, sell, or deal. Making the changes requested is inconsistent with statute. However, the rule does not prohibit product development. A licensee may engage in product development as long as the product developed is not spirituous liquor other than those listed on the license.	No change

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R19-1-702: The current rules use “may” but this rule uses “shall” when referring to the Board’s responsibility. It would be better to maintain the discretion that the Board currently has. Also, the word “Department” should be “Board.” (Guttilla)	In deference to the Board’s belief that “may” provides it with extra discretion, the word “shall” is changed to “may.” Although the Department encompasses the Board, for clarification, the word “Board” will be used.	The requested changes were made.
R19-1-201(A)(7): Currently out-of-state producers do not have to be qualified to do business in AZ. It appears the language of this subsection requires that they be qualified. Please clarify. (Policy Development Group)	To avoid the confusion that surrounds this subsection, the Department made minor clarifying changes	The phrase “and notwithstanding any other law” was added to subsection (A) and subsection (A)(7) was amended to cross-reference applicable statute.
R19-1-702: Changing “one mile” to “close proximity” seems contrary to statute and too broad and open to interpretation. (Alarcon)	The Notice of Proposed Rulemaking did not change use of “one mile.”	No change
R19-1-703: I thought A.R.S. § 41-1092.09 outlines the notice and response process. Maybe we should reference the statute in rule if it applies. (Alarcon)	A.R.S. § 41-1092.09 is referenced in subsection (A) of this Section. A.R.S. § 41-1062(B) requires an agency to make its rehearing or review rule as similar as possible to rule 59 of the Arizona Rules of Civil Procedure. R19-1-703 was drafted with this directive in mind.	No change

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit. Statute requires the Department to issue licenses.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is applicable to the subject of the rules (See 27 CFR, Chapter 1, Subchapter A). The rules are no more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

None of the rules was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

ARTICLE 1. ~~REPEALED~~ GENERAL PROVISIONS

Section

R19-1-101. ~~Repealed~~ Definitions

R19-1-102. ~~Repealed~~ Fees and Surcharges; Service Charges

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- R19-1-103. ~~Repealed~~ A.R.S. Title 4 Training Course: Minimum Standards
R19-1-104. ~~Repealed~~ Shipping Container Labeling: Shipping Requirements
R19-1-105. ~~Renumbered~~ Standards for a Non-contiguous Area of a Licensed Premises
R19-1-106. ~~Repealed~~ Severability
R19-1-107. ~~Repealed~~ Electronic Signatures
~~R19-1-105.~~ R19-1-108. ~~Reserved~~ Knowledge of Law and Regulations
~~R19-1-210.~~ R19-1-110. ~~Reserved~~ Sign Limitations
~~R19-1-228.~~ R19-1-112. Exceptions to General Rule
~~R19-1-315.~~ R19-1-113. Exemptions to A.R.S. § 4-244.05

ARTICLE 2. ~~REPEALED~~ LICENSING

Section

- R19-1-201. ~~Repealed~~ Who May Apply for a License
R19-1-202. ~~Repealed~~ Application Required
R19-1-203. ~~Repealed~~ Registration of a Retail Agent
R19-1-204. ~~Repealed~~ Obtaining a Quota License
R19-1-205. ~~Expired~~ Requirements for a Special Event License
R19-1-206. ~~Repealed~~ Criteria for Issuing a Restaurant License
R19-1-207. ~~Repealed~~ Extension of Premises
R19-1-208. ~~Repealed~~ Notice of Application for a Conveyance License
R19-1-209. ~~Repealed~~ Licensing Time-frames

ARTICLE 3. ~~REPEALED~~ LICENSEE RESPONSIBILITIES

Section

- R19-1-303. ~~Repealed~~ Authorized Spirituous Liquor
R19-1-304. ~~Repealed~~ Storing Spirituous Liquor on Unlicensed Premises
R19-1-305. ~~Repealed~~ Paying Taxes Required
R19-1-306. ~~Repealed~~ Bottle Labeling Requirements
R19-1-307. ~~Repealed~~ Bottle Reuse or Refilling Prohibited
R19-1-308. ~~Repealed~~ Age Requirement for Erotic Entertainers
R19-1-309. ~~Repealed~~ Prohibited Acts
R19-1-310. ~~Repealed~~ Prohibited Films and Pictures
R19-1-312. ~~Repealed~~ Accurate Labeling of Dispensing Equipment Required
R19-1-314. ~~Expired~~ Prohibited Inducement to Purchase or Consume Spirituous Liquor
R19-1-315. ~~Repealed~~ Responsibilities of a Licensee that Operates a Delivery Service
R19-1-316. ~~Repealed~~ Responsibilities of a Liquor Store or Beer and Wine Store Licensee
R19-1-317. ~~Repealed~~ Responsibilities of a Hotel-Motel or Restaurant Licensee
R19-1-318. Responsibilities of a Special Event Licensee
R19-1-319. Commercial Coercion or Bribery Prohibited
R19-1-322. Responsibilities of a Registered Retail Agent
R19-1-323. Underage Individuals on Licensed Premises
R19-1-325. Display of Warning Sign Regarding Consumption of Alcohol; Posting Notice Regarding Firearms
R19-1-326. Tapping Equipment
R19-1-327. Domestic Farm Winery Sampling

ARTICLE 4. REQUIRED NOTICES TO DEPARTMENT

Section

- R19-1-401. Notice of License Surrender or Application Withdrawal
R19-1-402. Registered Retail Agent: Notice of Change in Cooperative-purchase Agreement; List of Cooperative Members
R19-1-403. Hotel-Motel or Restaurant Licensee: Notice of Change to Restaurant Facility
R19-1-404. Notice of Sampling on a Licensed Off-sale Retail Premises
R19-1-405. Notice of Change in Status: Active or Nonuse
R19-1-406. Notice of Change in Manager
R19-1-407. Notice of Legal or Equitable Interest
R19-1-408. Notice of Change in Business Name, Address, or Telephone Number

ARTICLE 5. REQUIRED RECORDS AND REPORTS

Section

- R19-1-501. General Recordkeeping

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<u>R19-1-502.</u>	<u>On-sale Retail Personnel Records</u>
<u>R19-1-503.</u>	<u>Records Regarding Cooperative Purchases</u>
<u>R19-1-504.</u>	<u>Record of Delivery of Spirituous Liquor</u>
<u>R19-1-505.</u>	<u>Report of Act of Violence</u>

ARTICLE 6. VIOLATIONS; HEARINGS; DISCIPLINE

Section

<u>R19-1-601.</u>	<u>Appeals and Hearings</u>
<u>R19-1-602.</u>	<u>Actions During License Suspension</u>
<u>R19-1-603.</u>	<u>Seizure of Spirituous Liquor</u>
<u>R19-1-604.</u>	<u>Closure Due to Violence</u>

ARTICLE 7. STATE LIQUOR BOARD

Section

<u>R19-1-701.</u>	<u>Election of Officers</u>
<u>R19-1-702.</u>	<u>Determining Whether to Grant a License for a Certain Location</u>
<u>R19-1-703.</u>	<u>Rehearing or Review of Decision</u>
<u>R19-1-704.</u>	<u>Submitting Documents to the Board</u>
<u>R19-1-705.</u>	<u>Judicial Review</u>

ARTICLE 1. ~~REPEALED~~ GENERAL PROVISIONS

R19-1-101. ~~Repealed-Definitions~~

A. The definitions in A.R.S. §§ 4-101, 4-205.02, 4-205.03, 4-205.06, 4-207, 4-210, 4-227, 4-243, 4-243.01, 4-244, 4-248, 4-251, and 4-311 apply to this Chapter. Additionally, in A.R.S. Title 4 and this Chapter, unless the context otherwise requires:

1. "Association" means a group of individuals who have a common interest that is organized as a non-profit corporation or fraternal or benevolent society and owns or leases a business premises for the group's exclusive use.
2. "Bar license" (Series 6) means authorization issued to an on-sale retailer to sell:
 - a. Spirituous liquors in individual portions for consumption on the licensed premises;
 - b. Spirituous liquors in an original, unopened, container for consumption off the licensed premises provided sales for consumption off the licensed premises, by total retail sales of spirituous liquor at the licensed premises, are no more than the percentage of the sales price of on-sale spirituous liquor established under A.R.S. § 4-206.01(F); and
 - c. Beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32).
3. "Beer and wine bar license" (Series 7) means authorization issued to an on-sale retailer to sell:
 - a. Beer and wine in individual portions for consumption on the licensed premises;
 - b. Beer and wine in an original, unopened, container for consumption off the licensed premises provided sales for consumption off the licensed premises, by total retail sales of spirituous liquor at the licensed premises, are no more than the percentage of the sales price of on-sale spirituous liquor established under A.R.S. § 4-206.01(F); and
 - c. Beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32).
4. "Beer and wine store license" (Series 10) means authorization issued to an off-sale retailer to sell:
 - a. Wine and beer in an original, unopened, container for consumption off the licensed premises; and
 - b. Beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32).
5. "Business" means an enterprise or organized undertaking conducted regularly for profit, which may be licensed or unlicensed.
6. "Business premises" means real property and improvements from which a business operates.
7. "Catering establishment" means a business that is available for hire for a particular event and at which food and service is provided for people who attend the event.
8. "Club license" (Series 14) means authorization issued to a club to sell spirituous liquors only to members and members' bona fide guests for consumption only on the premises of the club.
9. "Cocktail mixer" means a non-alcoholic liquid or solid mixture used for mixing with spirituous liquor to prepare a beverage.
10. "Conveyance license" (Series 8) means authorization issued to the owner or lessee of an airplane, train, or boat to sell spirituous liquors for consumption only on the airplane, train, or boat.
11. "Cooler product" means an alcoholic beverage made from wine or beer and fruit juice or fruit flavoring, often in combination with a carbonated beverage and sugar but does not include a formula wine as defined at 27 CFR 24.10.
12. "Deal" means to sell, trade, furnish, distribute, or do business in spirituous liquor.
13. "Department" means the Director of the Department of Liquor Licenses and Control and the State Liquor Board.

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14. "Direct shipment license" (Series 17) means authorization issued to producer, exporter, importer, or rectifier to take an order for spirituous liquor and ship the order under A.R.S. § 4-203.04(A)-(I).
15. "Domestic farm winery license" (Series 13) means authorization issued to a domestic farm winery that produces at least 200 gallons but not more than 40,000 gallons of wine annually. For the purposes of A.R.S. § 4-243, a domestic farm winery is considered an "other producer."
16. "Domestic microbrewery license" (Series 3) means authorization issued to a domestic microbrewery that produces at least 5,000 gallons of beer following its first year of operation and not more than 1.24 million gallons of beer annually and includes authorization to sell beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32). For the purposes of A.R.S. § 4-243, a domestic microbrewery is considered an "other producer."
17. "Entertainment," as used in A.R.S. § 4-244.05, means any form of amusement including a theatrical, opera, dance, or musical performance, motion picture, videotape, audiotape, radio, television, carnival, game of chance or skill, exhibit, display, lecture, sporting event, or similar activity.
18. "Erotic entertainer," as used in A.R.S. § 4-112(G), means an employee who performs in a manner or style designed to stimulate or arouse sexual thoughts or actions.
19. "Government license" (Series 5) has the meaning set forth at A.R.S. § 4-101.
20. "Hotel-motel license" (Series 11) means authorization issued to a hotel or motel that has a restaurant where food is served to sell spirituous liquors for consumption on the premises of the hotel or motel or by means of a mini-bar.
21. "Incidental convenience," as used in A.R.S. § 4-244.05(I), means allowing a customer to possess and consume the amount of spirituous liquor stated in R19-1-324 while at a business to obtain goods or services regularly offered to all customers.
22. "In-state producer license" (Series 1) means authorization issued to an entity to produce or manufacture spirituous liquor in Arizona.
23. "Interim permit" means temporary authorization issued under A.R.S. § 4-203.01 that allows continued sale of spirituous liquor.
24. "Licensed" means a license or interim permit is issued under A.R.S. Title 4 and this Chapter, including a license or interim permit on nonuse status.
25. "Licensed retailer" means an on-sale or off-sale retailer.
26. "Limited out-of-state producer license" (Series 2L) means authorization issued to an out-of-state producer to sell no more than 50 cases of spirituous liquor through a wholesaler annually.
27. "Liquor store license" (Series 9) means authorization issued to an off-sale retailer to sell:
 - a. Spirituous liquors in an original, unopened, container for consumption off the licensed premises; and
 - b. Beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32).
28. "Non-technical error" means a mistake on an application that has the potential to mislead regarding the truthfulness of information provided.
29. "Nonuse" means a license is not used to engage in business activity authorized by the license for at least 30 consecutive days.
30. "Out-of-state producer license" (Series 2) means authorization issued to an entity to produce, export, import, or rectify spirituous liquors outside of Arizona and ship the spirituous liquors to a wholesaler.
31. "Party" has the same meaning as prescribed in A.R.S. § 41-1001.
32. "Physical barrier" means a wall, fence, rope, railing, or other temporary or permanent structure erected to restrict access to a designated area of a licensed premises.
33. "Producer" means the holder of an in-state, out-of-state, or limited out-of-state producer license.
34. "Product display" means a wine rack, bin, barrel, cask, shelving, or similar item with the primary function of holding and displaying spirituous liquor or other products.
35. "Quota license" means a bar, beer and wine bar, or liquor store license.
36. "Rectify" means to color, flavor, or otherwise process spirituous liquor by distilling, blending, percolating, or other processes.
37. "Reset" means a wholesaler adjusts spirituous liquor on the shelves of a licensed retailer.
38. "Restaurant continuation authorization" means authorization issued to the holder of a restaurant license to operate under the restaurant license after it is determined that food sales comprise at least 30 percent but less than 40 percent of the business's gross revenue.
39. "Restaurant license" (Series 12) means authorization issued to a restaurant, as defined in A.R.S. § 4-205.02, to sell spirituous liquors for consumption only on the restaurant premises.
40. "Second-party purchaser" means an individual who is of legal age to purchase spirituous liquor and buys spirituous liquor for an individual who may not lawfully purchase spirituous liquor in Arizona.
41. "Special event license" (Series 15) means authorization issued to a charitable, civic, fraternal, political, or religious organization to sell spirituous liquors for consumption on or off the premises where the spirituous liquor is sold only for a specified period.
42. "Tapping equipment" means beer, wine, and distilled spirit dispensers as stated in R19-1-326.

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- 43. "Technical error" means a mistake on an application that does not mislead regarding the truthfulness of the information provided.
- 44. "Transfer" means to:
 - a. Move a license from one location to another location within the same county; or
 - b. Change ownership, directly or indirectly, in whole or in part, of a business.
- 45. "Wholesaler license" (Series 4) means authorization issued to a wholesaler, as prescribed at A.R.S. § 4-243.01, to warehouse and distribute spirituous liquors to a licensed retailer or another licensed wholesaler.
- 46. "Wine festival or fair license" (Series 16) means authorization issued for a specified period to a domestic farm winery to serve samples of its products and sell the products in individual portions for consumption on the premises or in original, unopened, containers for consumption off the premises.

B. This Section is authorized by A.R.S. § 4-112(B)(1)(a).

R19-1-102. ~~Repeated~~ Fees and Surcharges; Service Charges

- A.** Most of the fees and surcharges collected by the Department are established by statute.
- B.** After a license other than a special event, wine festival or fair, or direct shipment license is approved but before the license is issued, the person that applied for the license shall pay the issuance fee and all applicable surcharges. If the license will be issued less than six months before it is scheduled to be renewed, the person that applied for the license shall also pay one-half of the annual renewal fee.
- C.** After a new bar, beer and wine bar, or liquor store license is approved but before the license is issued, the person that applied for the license shall, as required by A.R.S. § 4-206.01(A)-(E), pay the fair market value of the license.
- D.** After a restaurant continuation authorization is approved but before the authorization is issued, the person that applied for the authorization shall pay a one-time fee of \$30,000.
- E.** A licensee shall pay the renewal fee established under A.R.S. 4-209(D) annually or double the renewal fee established under A.R.S. 4-209(D) biennially, as specified by the Department. A licensee that fails to submit a renewal application by the deadline established by the Department shall pay a penalty of \$150 in addition to the renewal fee.
- F.** At the time of application for a license, an individual required under A.R.S. Title 4 or this Chapter to submit fingerprints for a criminal history background check, shall pay the charge established by the Department of Public Safety for processing the fingerprints. The individual may have the fingerprints taken by a law enforcement agency, other qualified entity, or the Department. If the fingerprints are taken by the Department, the individual shall pay to the Department the actual cost of this service to a maximum of \$20.
- G.** Until the date specified in A.R.S. § 4-205.02(G), the Director shall collect from an applicant for a restaurant license the actual amount incurred to conduct a site inspection to a maximum of \$50.
- H.** Until the date specified in A.R.S. § 4-207.01(B), the Director shall collect from a licensee the actual amount incurred to review and act on an application for approval to alter or change a licensed premises to a maximum of \$50.
- I.** Until the date specified in A.R.S. § 4-206.01(J), the Director establishes and shall collect a fee of \$100 from an applicant that applies for sampling privileges associated with a liquor or beer and wine store license and \$60 to renew the sampling privilege.
- J.** Until the date specified in A.R.S. § 4-244.05(J)(4), the Director shall collect from the owner of an unlicensed establishment or premises acting under A.R.S. § 4-244.05 the actual amount incurred to conduct an inspection for compliance with R19-1-324 to a maximum of \$50.
- K.** If a check provided to the Department by an applicant or licensee is dishonored by the bank upon presentment, the Department shall:
 - 1. As allowed by A.R.S. § 44-6852, require the applicant or licensee to pay the actual charges assessed by the bank plus a service fee of \$25;
 - 2. Not issue a license, permit, or other approval to the applicant or licensee until all fees, including those referenced in subsection (K)(1), are paid by money order; and
 - 3. Require the applicant or licensee to pay all future fees to the Department by money order.
- L.** As allowed under A.R.S. §35-142(K), the Department may impose a convenience fee for accepting payment made by credit or debit card.
- M.** This Section is authorized by A.R.S. §§ 4-112(G)(10), 4-205.02, 4-206.01, 4-207.01(B), 4-209, 4-244.05, and 35-142(K).

R19-1-103. ~~Repeated~~ A.R.S. Title 4 Training Course: Minimum Standards

- A.** As authorized by A.R.S. § 4-112(G)(2), the Department establishes the following minimum standards for an A.R.S. Title 4 training course.
 - 1. A provider of a training course shall ensure that course content, training materials, and examination provide current reference and practical application of statute and this Chapter for:
 - a. Basic liquor law applicable to an on-sale retail licensee.
 - b. Management training applicable to an on-sale retail licensee.
 - c. Basic liquor law applicable to an off-sale retail licensee, and
 - d. Management training applicable to an off-sale retail licensee;

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2. A provider of a Basic On-sale training course shall ensure that the course is a minimum of three hours, excluding sign-in and break times, and course content includes the following topics:
 - a. General law regarding spirituous liquor.
 - i. Review of requirements for licensees and employees in Title 4 and this Chapter.
 - ii. Role and function of the Arizona Department of Liquor Licenses and Control.
 - iii. Potential legal risks to an on-sale retail licensee.
 - iv. Potential legal risks to an employee of an on-sale retail licensee.
 - v. Distinction between off- and on-sale license privileges, and
 - vi. Types and privileges of on-sale retail licenses.
 - b. Law regarding a licensed premises.
 - i. The licensed premises defined;
 - ii. Entertainment within or on the licensed premises, private parties, special events, or gambling;
 - iii. Spirituous liquor brought onto or removed from the licensed premises; and
 - iv. Extending or changing the licensed premises.
 - c. Law regarding age.
 - i. Selling spirituous liquor to persons of legal age;
 - ii. When to require identification of legal age;
 - iii. Recognizing acceptable forms of identification;
 - iv. Recognizing invalid forms of identification;
 - v. Documenting identification inspection by using an ID Log;
 - vi. Underage individuals in a bar or restaurant at which spirituous liquor is served;
 - vii. The Covert Underage Buyer Program; and
 - viii. Refusing to sell spirituous liquor to an underage individual using policy, procedure, and skill assessment;
 - d. Law regarding intoxication.
 - i. The effects of spirituous liquor and recognizing signs of obvious intoxication;
 - ii. Responsibility for the safety of customers;
 - iii. Service limitations of spirituous liquor at a licensed premises, special event, or sampling event;
 - iv. Monitoring customer consumption and intervention techniques using skill assessment; and
 - v. Refusing spirituous liquor service or sale to an intoxicated individual using policy, procedure, and skill assessment;
 - e. Law regarding second-party sales of spirituous liquor.
 - i. Definition of second-party sale.
 - ii. Licensee responsibilities regarding second-party sales.
 - iii. Recognizing a second-party purchaser.
 - iv. Preventing a second-party sale, and
 - v. Refusing to sell to a second-party purchaser;
 - f. Employee consumption of spirituous liquor;
 - g. Law regarding legal hours of sale and payment for spirituous liquor at retail locations;
 - h. Disorderly conduct and acts of violence.
 - i. Defining disorderly conduct and acts of violence;
 - ii. Maintaining order on the licensed premises using policy, procedures, and skill assessment;
 - iii. Locating forms and reporting requirements for an act of violence;
 - iv. Repeated acts of violence; and
 - v. Firearms on the licensed premises;
 - i. Management of problem situations.
 - i. Kinds of problem situations that may arise.
 - ii. Recognizing a problem situation, and
 - iii. Employee responsibilities in a problem situation; and
 - j. Course review.
 - i. Summarize course content.
 - ii. Administer to all participants the examination required under subsection (A)(10).
 - iii. Have all participants complete the Course Evaluation Form required under subsection (A)(9), and
 - iv. Issue to qualifying participants the Certificate of Completion required under subsection (A)(11).
3. A provider of a Management On-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, is preceded by the Basic On-sale training course outlined in subsection (A)(2), and management content includes the following topics:
 - a. Making changes to and deactivating a liquor license.
 - i. Liquor license application requirements;
 - ii. The “capable, qualified, and reliable” requirements for licensure;

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- iii. Definition of controlling person, types of ownership, and ownership that is unlawful;
 - iv. Local government approval of liquor license application, including an application for a special event;
 - v. Distinction between the Director and the Board; and
 - vi. License application protests, requirements, and procedure;
 - b. Law enforcement regarding spirituous liquor.
 - i. Routine liquor inspection of premises.
 - ii. Common liquor law violations.
 - iii. Compliance meetings and actions.
 - iv. Office of Administrative Hearings.
 - v. Grounds for suspension or revocation.
 - vi. Administrative liability.
 - vii. Criminal liability, and
 - viii. Civil liability;
 - c. Licensed premises.
 - i. Diagramming licensed premises, including hotel and motel locations;
 - ii. Altering licensed premises;
 - iii. Changing name of business;
 - iv. Patio requirements; and
 - v. Unlicensed locations;
 - d. Liquor license.
 - i. Posting the liquor license.
 - ii. Required and optional signs.
 - iii. Renewing license.
 - iv. Recordkeeping requirements.
 - v. Employee log, and
 - vi. Change in active or nonuse status;
 - e. Management requirements.
 - i. Defining on-site manager, responsibilities, and completion of the required questionnaire;
 - ii. Managing employee and customer safety;
 - iii. Changing managers;
 - iv. Changing agents;
 - v. Restructure; and
 - vi. Locating forms and required reporting;
 - f. Spirituous liquor marketing.
 - i. Coupons and rebates.
 - ii. Happy hour.
 - iii. Advertising and signage, and
 - iv. Promotional and novelty items;
 - g. General business practices.
 - i. Sources of spirituous liquor;
 - ii. Credit purchase of spirituous liquor;
 - iii. Delivering, shipping, and internet selling of spirituous liquor;
 - iv. Off-premise storage of spirituous liquor;
 - v. Wholesaler and retailer relationship and inducements;
 - vi. Sampling events of spirituous liquor;
 - vii. Special events and auction of spirituous liquor;
 - viii. Wine and food clubs;
 - ix. Cooperative purchase of spirituous liquor.
 - x. Locking entrance to licensed premises and private parties.
 - xi. Limiting service to and consumption of spirituous liquor by employees, and
 - xii. Owner service and consumption of spirituous liquor;
 - h. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h) and management responsibilities; and
 - i. Course review. The activities specified under subsection (A)(2)(j).
 - 4. A provider of a Basic Off-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, and course content includes the following topics:
 - a. General law regarding spirituous liquor.
 - i. The information specified under subsections (A)(2)(a)(i) and (ii).
 - ii. Potential legal risks to an off-sale retail licensee.

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- iii. Potential legal risks to an employee of an off-sale retail licensee, and
 - iv. Types and privileges of off-sale retail licenses;
 - b. Law regarding a licensed premises. The information specified under subsections (A)(2)(b)(i), (ii), and (iv);
 - c. Law regarding age. The information specified under subsections (A)(2)(c)(i) through (v) and (vii) and (viii);
 - d. Law regarding intoxication. The information specified under subsections (A)(2)(d)(i) through (iii), and (v);
 - e. Law regarding second-party sales of spirituous liquor. The information specified under subsections (A)(2)(e);
 - f. Employee consumption of spirituous liquor.
 - g. Law regarding legal hours of sale.
 - i. Legal hours of sale in Arizona, and
 - ii. Refusing an after-hour sale using skill assessment;
 - h. Law regarding sale of broken packages and on-premises consumption.
 - i. Definition of broken package and on-premises consumption.
 - ii. Advising a customer of off-sale consumption restrictions using skill assessment.
 - iii. Refusing to allow a customer to open or consume spirituous liquor on the licensed premises using skill assessment, and
 - iv. Refusing to allow a customer to consume spirituous liquor in parking area or property adjacent to licensed premises using skill assessment;
 - i. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h);
 - j. Management of problem situations. The information specified under subsections (A)(2)(i); and
 - k. Course review. The activities specified under subsection (A)(2)(j).
 - 5. A provider of a Management Off-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, and is preceded by the Basic Off-sale training course outlined in subsection (A)(4), and management content includes the following topics:
 - a. Making changes to and deactivating a liquor license. The information specified under subsection (A)(3)(a);
 - b. Law enforcement regarding spirituous liquor. The information specified under subsection (A)(3)(b);
 - c. Licensed premises. The information specified under subsection (A)(3)(c);
 - d. Liquor license. The information specified under subsection (A)(3)(d);
 - e. Management requirements. The information specified under subsection (A)(3)(e);
 - f. Spirituous liquor marketing. The information specified under subsections (A)(3)(f)(i), (iii), and (iv);
 - g. General business practices.
 - i. The information specified under subsections (A)(3)(g)(i) through (vii) and (ix) through (xii), and
 - ii. Drive-through purchase of spirituous liquor;
 - h. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h) and management responsibilities; and
 - i. Course review. The activities specified under subsection (A)(2)(j).
 - 6. A provider of a Basic Off-sale with On-sale Privileges training course shall ensure that the course addresses the topics specified under subsections (A)(2) and (4).
 - 7. A provider of a Management Off-sale with On-sale Privileges training course shall ensure that the course addresses the topics specified under subsections (A)(3) and (5).
 - 8. A provider of a management training course shall ensure that a sign-in roster is completed and provides the following information:
 - a. Name of the course provider.
 - b. Date on which the course was conducted.
 - c. Location at which the course was conducted.
 - d. Name of individual who taught the course.
 - e. Printed name and signature of each participant, and
 - f. Form of identification accepted by the provider to verify each participant's identity and the number and expiration date of the identification;
 - 9. The Department shall provide a training provider with a Course Evaluation Form that allows a course participant to evaluate the knowledge and competence of the course trainer and the quality of the course.
 - 10. A provider of a training course shall administer an objective examination to measure each participant's completion of the course.
 - 11. The Department shall provide a training provider with an authorized Certificate of Completion form to issue to each participant who attends the course in its entirety, takes the examination required under subsection (A)(10), and completes the Course Evaluation form required under subsection (A)(9). The Department shall ensure that the Certificate of Completion contains the following information:
 - a. Name of the participant who completed the course,
 - b. Date on which the course was attended.
 - c. Notice that the Certificate of Completion expires three years from the date of issuance.

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- d. Whether the completed course addressed on-sale or off-sale retail requirements or a combination of both.
- e. Whether the completed course addressed basic or management information or a combination of both.
- f. Name of individual who taught the training course, and
- g. Name of the course provider.
- 12. A provider of a training course shall:
 - a. Maintain for two years:
 - i. A record of all Certificates of Completion issued under subsection (A)(11).
 - ii. Course Evaluation Forms completed by participants as required under subsection (A)(9).
 - iii. Examination results for each course participant as required under subsection (A)(10), and
 - iv. Course sign-in rosters required under subsection (A)(8); and
 - b. Submit to the Department by August 1 of each year, either by mail or electronically, an updated syllabus, examination, and other course materials for each training course provided. The provider shall ensure that the updated syllabus, course materials, and examination clearly indicate:
 - i. Whether the course is on-sale, off-sale, or a combination of both;
 - ii. Whether the course is basic or basic plus management;
 - iii. The name of each trainer authorized by the provider to teach each course;
 - iv. A list of individuals who are no longer authorized by the provider to teach its courses; and
 - v. The name, daytime telephone number, and e-mail address of the person responsible for the course provider.
- B. Before providing a training course to participants, the provider of the training course shall apply to the Department for approval of the course content.
- C. The provider of an approved training course shall, upon request, make the following available to the Department:
 - 1. Record of the Certificates of Completion maintained under subsection (A)(11);
 - 2. All current training course syllabi, course materials, examinations, and Employee Information Forms;
 - 3. A copy of all materials provided to course participants;
 - 4. A copy of all teaching aids used in the training course; and
 - 5. A copy of the Course Evaluations Forms completed under subsection (A)(9).
- D. The Department may, at any time, review an approved training course to determine that the course continues to meet the minimum standards specified in this Section. A provider shall inform the Department, upon request, of the date, time, and location of all scheduled training courses and allow the Department to audit the courses for:
 - 1. Compliance with this Section, and
 - 2. Quality and accuracy of the training course content.
- E. If the Department determines that a training course fails to meet the minimum standards specified in this Section, the Department shall give notice to the course provider regarding the areas of non-compliance, the steps required to be in compliance, and the date by which compliance must be achieved.
- F. If the Department determines that a provider who received notice under subsection (E) failed to achieve compliance by the date specified, the Department may take action to suspend or revoke approval of the training course.
- G. This Section is authorized by A.R.S. § 4-112(G)(2).

R19-1-104. ~~Repeated~~ Shipping Container Labeling; Shipping Requirements

- A. An individual or entity, whether licensed or unlicensed under A.R.S. Title 4 and this Chapter, shall ensure that spirituous liquor shipped or offered for shipping within this state for a commercial purpose is in a container that is clearly and conspicuously labeled with or is accompanied by a shipping document containing the following information:
 - 1. Name of the individual or entity consigning or shipping the spirituous liquor.
 - 2. Name and address of the individual or entity to whom the spirituous liquor will be delivered, and
 - 3. Identification of the spirituous liquor.
- B. An individual who transports spirituous liquor other than beer from a wholesaler to a licensed retailer shall ensure that:
 - 1. The individual possesses a bill or memorandum from the wholesaler to the licensed retailer showing the:
 - a. Name and address of the wholesaler,
 - b. Name and address of the licensed retailer, and
 - c. Quantity and type of the spirituous liquor sold and transported; and
 - 2. The bill or memorandum referenced under subsection (B)(1) is exhibited on demand by any peace officer.
- C. An individual or entity that ships or offers for shipping spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:
 - 1. With the exception of wine that is being shipped under A.R.S. § 4-203.04(J) or A.R.S. § 4-205.04(C)(7) or (9) by a domestic farm winery licensee or beer that is being shipped under A.R.S. § 4-205.08(D)(5) by a domestic microbrewery licensee, the spirituous liquor is consigned to a wholesaler authorized to sell or deal in the particular spirituous liquor being shipped; and
 - 2. The spirituous liquor is placed for shipping with:
 - a. A common carrier or transportation company that is in compliance with all Arizona and federal law regarding operation of an interstate transportation business, or

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- b. The wholesaler to whom the spirituous liquor is consigned.
- D.** A common carrier or transportation company hired to transport spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:
1. The common carrier or transportation company maintains possession of the spirituous liquor from the time the spirituous liquor is placed for shipping until it is delivered; and
 2. With the exception of spirituous liquor that is being shipped under A.R.S. § 4-203.04(J) or A.R.S. § 4-205.04(C)(7) or (9) by a domestic farm winery licensee, the spirituous liquor is delivered to the licensed premises of the wholesaler to whom the spirituous liquor is consigned.
- E.** An individual or entity shall not construe this Section in a manner that interferes with the interstate shipment of spirituous liquor, including beer and wine, through this state if the spirituous liquor, as it passes through this state, is under the control of a common carrier or transportation company hired to transport the spirituous liquor.
- F.** This Section is authorized by A.R.S. § 4-112(B)(1)(a).

R19-1-105. ~~Renumbered~~ Standards for a Non-contiguous Area of a Licensed Premises

- A.** When an application is made for inclusion of a non-contiguous area in a licensed premises, the Department shall approve inclusion of the non-contiguous area only if the following standards are met:
1. Unless application is made by a club licensee, the public convenience requires and the best interest of the community will be substantially served by approving inclusion of the non-contiguous area in the licensed premises;
 2. The non-contiguous area does not violate A.R.S. § 4-207;
 3. The non-contiguous area will be a permanent part of the licensed premises;
 4. The walkway or driveway that separates the non-contiguous area from the remainder of the licensed premises is no more than 30 feet wide;
 5. The non-contiguous area is completely enclosed by a permanently installed fence that is at least three feet in height;
 6. Construction of the business premises in the non-contiguous area will comply with all applicable building and safety standards before spirituous liquor is sold or served in the non-contiguous area; and
 7. The licensee demonstrates control of the taking of spirituous liquor between the non-contiguous area and the remainder of the licensed premises.
- B.** This Section is authorized by A.R.S. § 4-101(26).

R19-1-106. ~~Repealed~~ Severability

- A.** In this Chapter, the subsections of each Section are severable and each Section is severable from the Chapter. If a Section or subsection or the application of a Section or subsection to a particular individual, entity, or circumstance is held to be invalid, the invalidity does not affect the validity of other Sections or subsections and does not affect the validity of the Section or subsection to a different individual, entity, or circumstance.
- B.** This Section is authorized by A.R.S. § 4-112(B)(1)(b).

R19-1-107. ~~Repealed~~ Electronic Signatures

- A.** An applicant, licensee, or other person that submits to the Department a form or document required under A.R.S. Title 4 or this Chapter may submit the form or document electronically.
- B.** This Section is authorized by A.R.S. § 4-112(G)(11).

~~R19-1-105-R19-1-108. Reserved~~ Knowledge of Law and Regulations

All licensees and their employees whose duties require or permit the handling of spirituous liquors shall be familiar with the liquor laws and the rules and regulations of the Director and of the State Liquor Board. It is the responsibility of the licensee to ensure that all employees acquire the aforementioned knowledge.

~~R19-1-210-R19-1-110. Sign~~ Limitations

- A.** A person, firm, or corporation engaged in business as a manufacturer, distiller, brewer, vintner, or wholesaler or any officer, director, agent, or employee of such person may lend, to the retailer any sign for interior or exterior use provided:
- The sign must bear conspicuous and substantial advertising matter about a product of the manufacturer, distiller, brewer, vintner, or wholesaler.
 - The cost of the sign may not exceed \$400.
 - A sign may not be utilitarian except as to its advertising or information content.
 - No such signs shall be offered or furnished by any manufacturer, distiller, brewer, vintner or wholesaler or by any officer, director, agent, or employee thereof, or by any other person as an inducement to the retailer to purchase or use the products of such manufacturer, distiller, brewer, vintner or wholesaler to the exclusion in whole or in part of the product of any competitor.
- B.** No signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall be obscene as determined by applying contemporary state standards.
- C.** Licensed special events are not subject to the limitations of subsections (A)(1) through (3).

~~R19-1-228-R19-1-112. Exceptions to General Rule~~

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- A.** The following are exceptions in which producers/wholesalers may furnish to the retailer something of value, as long as the retailer is not induced to purchase spirituous liquor from the producer/wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.
- B.** Licensed special events
1. A producer/wholesaler may participate in an event at which liquor is sold by furnishing advertising, sponsorship, services, or other things of value as long as:
 - a. The event has been issued a special event license.
 - b. The special event license was issued to a civic, religious, or fraternal group, but not a political group.
 - c. If the event is being held at a location that is a licensed retail location nothing of value is left at the location or given to the retailer or retail employees at or following the event.
 2. A producer/wholesaler may donate, but not sell directly to the group issued the special event license as long as it is not a political group. If the special event licensee is buying spirituous liquor at retail to resell, the wholesaler may invoice the sale through a retailer following completion of the event.
 3. At a location issued a special event license spirituous liquor sales may be handled in the following ways:
 - a. In the case of an otherwise unlicensed location the nonprofit group is responsible for sales of spirituous liquor.
 - b. In case of a licensed retail location one of the following may occur:
 - i. During the special event the regular licensee ceases all sales of spirituous liquor and the nonprofit group is responsible for all sales of spirituous liquor.
 - ii. During the special event the regular licensee conducts all dispensing/serving under the regular retail license and the nonprofit group does none. The regular licensee is responsible for proper service. The liquor dispensed is that purchased by the retailer from the wholesaler.
 - iii. During the special event the regular licensee conducts all dispensing/serving under the special event license and the nonprofit group does none. The regular licensee and the special event licensee are responsible. The spirituous liquor dispensed is that purchased/donated by/to the special event licensee.
 - iv. During the special event the licensed location is split into an area in which the regular licensee exclusively dispenses and is responsible for all spirituous liquor sales and another separate area in which the nonprofit group exclusively dispenses and is responsible for all spirituous liquor sales.
- C.** Resets; rotations; displays
1. The producer/wholesaler may stock, reset, and rotate at the retail establishment any product that he or she sells to the retailer. Such stocking may include pricing, cleaning shelves, furnishing point of sale written advertising that includes pricing data (as long as it complies with sign limitations), rotating product, cleaning product, or otherwise preparing the product for sale at the point of sale, but may not perform these functions in warm or cold storage areas from which the consumers may not purchase product. Retailers shall not require stock reset or rotation as a condition of shelf space, cold box space, or product display space.
 2. A producer/wholesaler may furnish reset services as long as a representative of each affected wholesaler is invited to attend such reset by the retailer with reasonable notice not less than 2 working days before the reset and the retailer consents to the reset. As part of the reset the producer/wholesaler may move his or her own product or that of a competitor.
 3. A producer/wholesaler may set up a display of his or her product and may with the consent of the retailer move a competitor's product and may move nonalcoholic products or items as necessary to set up the display.
 4. No retail display may consist of an item of potential utilitarian value to the retailer or any person after March 1, 1987, facsimiles are acceptable.
- D.** Furnishing retail customers with items of value
1. A producer/wholesaler may furnish to retail customers advertising novelties which are not directly utilized in the operation of the retail business. Each novelty must be of a value less than \$5.00. In addition, a producer/wholesaler may also furnish to retail customers of any retail establishment items greater than \$5.00 in value but not to exceed a total of \$100.00 in value during any 6:00 a.m. to 1:00 a.m. period per establishment. The items must be given to the customer by the producer/wholesaler employee for each retail establishment and may not pass through the retailer's hands. None of the items may be given to the retailer or the retailer's employees or be left at the retail establishment.
 2. Sports schedules that list events at a licensed establishment are permitted.
- E.** Refrigerated vehicles. A producer/wholesaler may furnish a refrigerated vehicle for an event at a licensed or unlicensed location if a special event license has been obtained (excluding political events) for the event. If there is no special event license no approval is granted. The vehicle may be used for storage and dispensing, but no producer/wholesaler personnel may dispense.
- F.** Print advertising. Furnishing advertising copy (ad slicks) of nominal value is permissible.
- G.** Sporting events. A producer/wholesaler may provide to a licensed retailer financial or other forms of event sponsorship, including advertising, if it is in conjunction with a sporting event and no item of utilitarian value remains with the retailer or at the retail location following the conclusion of the sporting event. Signs in connection with sporting events are not subject to value limitations.

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- H.** Trade shows and convention. A producer/wholesaler may participate by sampling, sponsorship, advertising, or otherwise in trade shows and conventions at licensed or unlicensed establishments in which there is no special event license as long as no regular licensee benefits other than by the promotion of the event itself. Sampling limitations apply, see subsection (Q).
- I.** Concerts. A producer/wholesaler may participate by sponsorship, advertising, or otherwise in a concert at a licensed location with the capacity in excess of 500 persons as long as the regular licensee does not benefit other than by the promotion of the event itself.
- J.** Wine or drink menus. A producer/wholesaler may furnish to a retailer wine or drink menus if the menus have no utilitarian value beyond that of a wine or drink menu and are made available to all retail accounts utilizing such menus.
- K.** Tapping equipment. All items authorized by R19-1-241 are permitted for all alcoholic beverages.
- L.** Driver sales. All alcoholic beverages may be sold without prior order from the retailer to the wholesaler, commonly called "driver sales".
- M.** Coupons and rebates. Coupons and rebates may be distributed by any method including via point of sale, except a producer/wholesaler may not list specific retailers or participate in a retailer's advertisement.
- N.** Incentive programs between producers and wholesalers. Arizona law does not regulate incentive programs involving only producers and wholesalers.
- O.** Participation at events without alcoholic beverages. The Department does not regulate the participation by producers/wholesalers in events at which spirituous liquor is not sold, offered or served.
- P.** Delivery to chain stores/co-ops. Quantity purchases of volume discounted products must be entirely delivered to the approved storage facility of the chain store or retail cooperative.
- Q.** Malt Beverage Product returns. At the wholesaler's discretion, malt beverage products of a retail establishment that will be closed for thirty days or more may be exchanged, credited, or refunded. With permission of the director, a wholesaler may exchange, credit or refund malt beverage product that the retailer is discontinuing.
- R.** Sampling by producers/wholesalers. Approved sampling procedures are:
1. Sampling operations must be conducted under the supervision of an employee of the sponsoring distiller, vintner, brewer, or wholesaler and accurate records of all sampling procedures and products must be retained.
 2. Sampling at on-premises events or wholesaler's premises must be limited to 12 ounces of beer or "cooler" products, 6 ounces of wine, and 2 ounces of distilled spirits per person per brand.
 3. Sampling at off-sale events must be limited to 72 ounces of beer, "cooler" or wine products, and 750 milliliters of distilled spirits per person per brand.
 4. Sampling from a package with a broken seal may be conducted on on-sale and wholesaler's premises only. No package may be broken or contents consumed on off-sale premises.
 5. The wholesaler's representative, when requesting a retail on-sale licensee to prepare a drink for the customer, must pay the retail on-sale licensee for the sample drink.
 6. When sampling is conducted on off-sale premises, sampling wares must be distributed to the customer in sealed original packages only.
 7. The producer/wholesaler may not buy the retail licensee, or his or her employees, a drink during their working hours or while they are engaged in waiting on or serving customers.
 8. The producer/wholesaler may not give a keg of beer, or any spirituous liquor, or other gifts or benefits to a retail licensee.
 9. All sampling procedures must conform to federal sampling laws and rules.
- S.** Market research programs. Bona fide market research via personal or mail intercept is authorized if:
1. The products being distributed are shipped through or obtained from an authorized licensed wholesaler.
 2. People handling the products are 19 years old or older.
 3. Participants are of legal drinking age.
 4. The total amount of product being tested does not exceed 72 ounces of beer, "cooler", or wine product or 750 milliliters of distilled spirits.
- T.** Registration of salespersons or solicitors A.R.S. § 4-222, which required the registration of producer/wholesaler salespersons and solicitors has been repealed. Registration applies to agents of retail cooperatives only.
- U.** Holiday Decorations. A distiller, vintner, brewer, importer, producer, or wholesaler may give a retailer brand-identified, holiday decorations that have no utilitarian value to the retailer other than as a decoration.

R19-1-315-R19-1-113. Exemptions to A.R.S. § 4-244.05

Small restaurants, catering establishments, associations, and business establishments hosting private social functions are exempt from A.R.S. § 4-244.05 if the business establishment meets all of the following conditions:

1. The possession or consumption of spirituous liquor on the premises is limited to wine and beer and is permitted as an incidental convenience to patrons of the business establishment.
2. The business establishment limits possession or consumption of wine or beer on the premises to the hours between noon and 10 p.m.
3. The business establishment or premises allows a patron to possess no more than 24 ounces of beer per person, or 6

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- ounces of wine per person to be consumed on the premises.
4. The business establishment notifies the Department on a form prescribed by the Department that it permits patrons to consume or possess beer or wine on the premises.
 5. The business establishment and/or its proprietor, manager, comptroller, controlling person, or employee shall comply with A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
 6. The business establishment and/or its proprietor, manager, comptroller, controlling person, or employee shall not permit the number of patrons within the business establishment to exceed the maximum occupancy limitations. The maximum occupancy limitations are:
 - a. Small restaurant: shall not exceed 40 patrons.
 - b. Catering establishment: shall not exceed 300 patrons.
 - c. Associations: shall not exceed 300 patrons.
 - d. Business establishments hosting private social functions: shall not exceed 300 patrons.
 7. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 2. ~~REPEALED~~ LICENSING

R19-1-201. ~~Repealed~~ Who May Apply for a License

- A.** Except as provided in subsection (B) and notwithstanding any other law, the following pre-requisites apply for a license under A.R.S. Title 4 and this Chapter.
1. If an individual applies for a license, the individual shall be:
 - a. A citizen of the United States or a legal resident alien, and
 - b. A bona fide resident of Arizona;
 2. If a partnership applies for a license, each partner shall meet the criteria in subsection (A)(1);
 3. Except as provided in subsection (A)(6), if a corporation or limited liability company applies for a license, the corporation or limited liability company shall:
 - a. Be qualified to do business in Arizona, and
 - b. Hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
 4. If a limited partnership applies for a license:
 - a. An individual general partner, but not a limited partner, shall meet the criteria in subsection (A)(1); and
 - b. A corporate general partner shall meet the criteria in subsection (A)(3);
 5. If a club or governmental entity applies for a license, the club or governmental entity shall hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
 6. If an out-of-state entity applies for a license, the out-of-state entity shall hold the license through an agent who meets the standard described in A.R.S. § 4-202(A).
- B.** An entity organized outside the U.S. that applies for an out-of-state producer or limited out-of-state producer license is not required to meet the pre-requisites in subsection (A) if the person makes application through an agent who meets the criteria listed in A.R.S. § 41-1080(B).
- C.** The Department shall accept as evidence that an individual is a citizen of the United States or a legal resident alien the documents listed in A.R.S. § 41-1080(A).
- D.** The Department shall accept a driver license or voter registration card as evidence that an individual is a bona fide resident of Arizona.
- E.** The Department shall accept the following, provided by or filed with the Arizona Corporation Commission, as evidence that an entity is qualified to do business in Arizona:
1. Corporation file number, or
 2. L.L.C. file number.
- F.** This Section is authorized by A.R.S. §§ 4-202(A) and 41-1080.

R19-1-202. ~~Repealed~~ Application Required

- A.** An individual or entity that wishes to obtain a license or other approval from the Department shall complete and submit to the Department an application using a form that is available from the Department at its office or online.
- B.** This Section is authorized by A.R.S. §§ 4-201, 4-202, 4-203, 4-203.01, 4-203.04, and 4-228.

R19-1-203. ~~Repealed~~ Registration of a Retail Agent

- A.** Pre-requisites for registration as a retail agent. A person may act as a retail agent only if the person:
1. Holds one of the licenses listed in A.R.S. § 4-222(A);
 2. Has a written Cooperative-purchase Agreement, using a form available from the Department, with one or more licensees; and
 3. Submits the materials required under subsections (B) and (C) to the Department.

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- B.** To register as a retail agent, a licensee shall submit to the Department the application form prescribed by the Department. The licensee registering shall include the licensee's notarized signature affirming that the licensee will comply with all laws and this Chapter regarding cooperative purchases and that all information provided is true, correct, and complete.
- C.** In addition to submitting the application form required under subsection (B), an applicant for registration as a retail agent shall submit:
 - 1. A copy of every Cooperative-purchase Agreement reached with another licensee, and
 - 2. The fee prescribed at A.R.S. § 4-222(B).
- D.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(d) and 4-222.

R19-1-204. ~~Repealed~~ Obtaining a Quota License

- A.** The number of quota licenses that the Department may issue in a county is limited.
- B.** Before issuing a new quota license in a particular county, the Department shall provide notice through available media of its intent to issue a new quota license, the particular kind of quota license to be issued, and invite interested persons in the county to inform the Department of their interest in the manner prescribed by the Department.
- C.** If the number of interested persons in a particular county exceeds the number of specified quota licenses available, the Department shall use a random selection method to determine priority of individuals who have applied for a new quota license.
- D.** Before a new quota license is issued to a successful applicant, the applicant shall pay:
 - 1. The issuance fee and applicable surcharges prescribed under A.R.S. § 4-209;
 - 2. One-half of the annual renewal fee if the license will be issued less than six months before it is scheduled to be renewed; and
 - 3. The fair market value of the quota license, as determined by the Department.
- E.** This Section is authorized by A.R.S. § 4-206.01.

R19-1-205. ~~Expired~~ Requirements for a Special Event License

- A.** To apply for a special event license, an entity authorized under A.R.S. § 4-203.02 (B) shall submit to the Department an application form, which is available from the Department.
- B.** At the same time application is made to the Department under subsection (A), the entity shall submit a copy of the application form to the board of supervisors if the special event is to be held in an unincorporated area or to the governing body of a city or town if the special event is to be held in a city or town. The Department shall issue a special event license subject to the approval of the board of supervisors or governing body.
- C.** The Department shall issue a special event license to an entity authorized under A.R.S. § 4-203.02 (B) for no more than 10 days in each calendar year.
- D.** This Section is authorized by A.R.S. § 4-203.02.

R19-1-206. ~~Repealed~~ Criteria for Issuing a Restaurant License

- A.** The Department shall not issue a restaurant license to an applicant if the Department finds there is sufficient evidence that the applicant will be unable to operate as a restaurant as defined at A.R.S. § 4-205.02(H)(2).
- B.** The following criteria are evidence of an ability to operate a restaurant as defined at A.R.S. § 4-205.02(H)(2). The Department shall consider these criteria when determining whether to issue a restaurant license to an applicant:
 - 1. Number of cooks, other food preparation personnel, and wait staff are sufficient to prepare and provide the proposed restaurant services;
 - 2. Restaurant equipment is of sufficient grade or appropriate for the offered menu;
 - 3. Proposed menu is of a type and price likely to achieve 40 percent food sales; and
 - 4. Dinnerware and small-ware, including dining utensils, are compatible with the offered menu.
- C.** The following criteria are evidence of an inability to operate a restaurant as defined at A.R.S. § 4-205.02(H)(2). The Department shall consider these criteria when determining whether to issue a restaurant license to an applicant:
 - 1. More than 60 percent of the public seating area consists of barstools, cocktail tables, and similar seating indicating the area is used primarily for consumption of spirituous liquor;
 - 2. Name, signage, or promotional materials of the proposed business premises contain a term such as bar, tavern, pub, spirits, club, lounge, cabaret, or saloon that denotes sale of spirituous liquor;
 - 3. Proposed business premises has a jukebox, live entertainment, or dance floor; and
 - 4. Proposed business premises contain bar games and equipment.
- D.** This Section is authorized by A.R.S. § 4-205.02(E).

R19-1-207. ~~Repealed~~ Extension of Premises

- A.** A licensee shall ensure that no spirituous liquor is served to a customer seated outside the licensed premises, as defined at A.R.S. § 4-101(26), without first making application for an extension of premises.
- B.** An application under subsection (A) is required for either a temporary or permanent extension of premises.
- C.** This Section is authorized by A.R.S. §§ 4-101(26) and 4-203(B).

R19-1-208. ~~Repealed~~ Notice of Application for a Conveyance License

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A. An individual or entity qualified under R19-1-201 who submits an application under R19-1-202 for a conveyance license shall post a copy of the application and the notice required under A.R.S. § 4-201(B) conspicuously at the location from which the applicant conducts its principal business in Arizona.

B. This Section is authorized by A.R.S. § 4-201(B).

R19-1-209. Repealed Licensing Time-frames

A. For the purpose of compliance with A.R.S. § 41-1073, the Department establishes time-frames that apply to licenses issued by the Department. The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame as defined in A.R.S. § 41-1072.

B. The Department shall not forward a liquor license application for review and consideration by local governing authorities until the application is administratively complete. A liquor license application is administratively complete when:

1. Every piece of information required by the form prescribed by the Department is provided;
2. All required materials specified on the form prescribed by the Department are attached to the form;
3. The non-refundable license application fee specified at A.R.S. § 4-209(A) is attached to the form; and
4. If required, a questionnaire and complete set of fingerprints are attached to the form from:
 - a. Every individual who is a controlling person of the business to be licensed,
 - b. Every individual who has an aggregate beneficial interest of at least 10 percent in the business to be licensed,
 - c. Every individual who owns at least 10 percent of the business to be licensed,
 - d. Every individual who holds a beneficial interest of at least 10 percent of the liabilities of the business to be licensed, and
 - e. The agent and managers of the business to be licensed.

C. Except as provided in subsection (D), the time-frame for the Department to act on a license application is as follows:

1. Administrative completeness review time-frame: 75 days;
2. Substantive review time-frame: 30 days; and
3. Over-all time-frame: 105 days.

D. The time-frame for the Department to act on an application for a special event license, wine festival or fair license, extension or change of licensed premises, or approval of a liquor law training course is as follows:

1. Administrative completeness review time-frame: 10 days;
2. Substantive review time-frame: 20 days; and
3. Over-all time-frame: 30 days.

E. Administrative completeness review time-frame.

1. The administrative completeness review time-frame begins when the Department receives an application. During the administrative completeness review time-frame, the Department shall determine whether the application is:
 - a. Complete,
 - b. Contains a technical error, or
 - c. Contains a non-technical error.
2. If the Department determines that an application is incomplete or contains a non-technical error, the Department shall return the application to the applicant. If the applicant wishes to be considered further for a license, the applicant shall submit to the Department a new, completed application and non-refundable application fee.
3. If the Department determines that an application contains a technical error, the Department shall notify the applicant in writing of the technical error.
4. An applicant that receives a notice regarding a technical error in an application shall correct the technical error within 30 days from the date of the notice or within the time specified by the Department. The administrative completeness review and over-all time-frames are suspended from the date of the notice referenced under subsection (E)(3) until the date the technical error is corrected.
5. If an applicant fails to correct a technical error within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-refundable application fee.

F. Substantive review time-frame.

1. The substantive review time-frame begins when an application is administratively complete or at the end of the administrative completeness review time-frame listed in subsection (C)(1) or (D)(1). If a hearing is required under A.R.S. § 4-201 regarding the license application, the Department shall ensure that the hearing occurs during the substantive review time-frame.
2. If the Department determines during the substantive review that additional information is needed, the Department shall send the applicant a comprehensive written request for additional information. An applicant from whom additional information is requested shall supply the additional information within 30 days from the date of the request or within the time specified by the Department. Both the substantive review and over-all time-frames are suspended from the date of the Department's request until the date that the Department receives the additional information.
3. If an applicant fails to submit the requested information within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-

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refundable application fee.

G. Within the overall time-frame, the Department shall:

1. Deny a license to an applicant if the Department determines that the applicant does not meet all the substantive criteria required by A.R.S. Title 4 and this Chapter, or
2. Grant a license to an applicant if the Department determines that the applicant meets all the substantive criteria required by A.R.S. Title 4 and this Chapter.

H. If the Department denies a license under subsection (G)(1), the Department shall provide a written notice of denial to the applicant that explains:

1. The reason for the denial, with citations to supporting statutes or rules;
2. The applicant's right to appeal the denial; and
3. The time for appealing the denial.

I. This Section is authorized by A.R.S. §§ 41-1073, 4-101(9), 4-201(E), and 4-202(B).

ARTICLE 3. ~~REPEALED~~ LICENSEE RESPONSIBILITIES

R19-1-303. ~~Repealed~~ Authorized Spirituous Liquor

- A.** A licensee shall not directly or indirectly manufacture, sell, or deal in spirituous liquor in Arizona other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B.** A licensee shall ensure that no spirituous liquor other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter is on the licensed premises for any purpose.
- C.** This Section is authorized by A.R.S. § 4-203(B)(1).

R19-1-304. ~~Repealed~~ Storing Spirituous Liquor on Unlicensed Premises

- A.** Except as provided in subsection (B), a licensee shall not accept delivery of or store spirituous liquor at any premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B.** The Department shall authorize a licensee to accept delivery of or store spirituous liquor at a premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter if:
1. The licensee submits a written request to the Department that:
 - a. Identifies the unlicensed premises,
 - b. Provides a diagram that shows the geographical location of the unlicensed premises in relation to the business premises, and
 - c. Explains how the licensee will safeguard the spirituous liquor at the unlicensed premises; and
 2. The Department determines that the licensee will safeguard the spirituous liquor at the unlicensed premises in a manner that protects the public health, safety, and welfare and that authorizing the licensee to store spirituous liquor at the unlicensed premises is consistent with the best interest of the state.
- C.** A licensee granted authorization under subsection (B) shall provide evidence of the authorization to a wholesaler before asking the wholesaler to make delivery of spirituous liquor at the unlicensed premises.
- D.** This Section is authorized by A.R.S. § 4-203(B).

R19-1-305. ~~Repealed~~ Paying Taxes Required

- A.** The Director shall not issue an interim permit on a quota license if the Director has notice that the quota-license licensee is delinquent in paying any tax to the state or a political subdivision unless:
1. The licensee or transferee enters into an agreement with the taxing authority to pay the delinquent tax; and
 2. The taxing authority submits written verification of the agreement to the Director.
- B.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(c), 4-205.04(E), and 4-210(A)(5).

R19-1-306. ~~Repealed~~ Bottle Labeling Requirements

- A.** A licensee and any officer, director, agent, or employee of the licensee shall not directly or indirectly or through an affiliate sell, ship, deliver for sale or shipment, or receive or remove from federal custody any bottled spirituous liquor unless the spirituous liquor is bottled, packaged, and labeled in conformity with all federal requirements.
- B.** This Section is authorized by A.R.S. § 4-112(B)(1)(a).

R19-1-307. ~~Repealed~~ Bottle Reuse or Refilling Prohibited

- A.** Except as authorized under A.R.S. § 4-244(32), a retail licensee shall ensure that a bottle or other container authorized by law for packaging spirituous liquor:
1. Is not reused to package spirituous liquor after the spirituous liquor originally packaged in the bottle or other container is removed from the bottle or other container, and
 2. Bears a label that accurately indicates the kind and brand of spirituous liquor in the bottle or other container.
- B.** Except as authorized under A.R.S. § 4-244(32) and (45), a retail licensee shall ensure that no substance is added to a bottle or other container authorized by law for packaging spirituous liquor that has the effect of increasing the amount of liquid originally packaged or remaining in the bottle or other container.
- C.** This Section is authorized by A.R.S. § 4-244(21), (32), and (45).

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R19-1-308. ~~Repealed~~ Age Requirement for Erotic Entertainers

- A.** A licensee shall ensure that an individual employed by or performing as an erotic entertainer at the licensed premises is at least 19 years old.
- B.** This Section is authorized by A.R.S. § 4-112(G)(6).

R19-1-309. ~~Repealed~~ Prohibited Acts

- A.** A licensee or an employee of a business shall take reasonable steps to ensure that an individual on the licensed premises, including an employee or independent contractor of the licensed premises, does not:
1. Expose any portion of the individual's anus, vulva, or genitals;
 2. Grope, caress, or fondle or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of another individual with any part of the body; or
 3. Perform an act of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.
- B.** This Section is authorized by A.R.S. § 4-112(B)(1)(b).

R19-1-310. ~~Repealed~~ Prohibited Films and Pictures

- A.** A licensee shall ensure that a film, slide picture, or other reproduction is not shown on the licensed premises if the film, slide picture, or other reproduction depicts:
1. An act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or a sexual act prohibited by law;
 2. An individual being touched, caressed, or fondled on the breast, anus, vulva, or genitals;
 3. An individual displaying a portion of the individual's pubic hair, anus, vulva, or genitals; or
 4. Use of an artificial device or inanimate object to depict an activity described under subsections (1) through (3).
- B.** This Section is authorized by A.R.S. § 4-112(B)(1)(b).

R19-1-312. ~~Repealed~~ Accurate Labeling of Dispensing Equipment Required

- A.** A licensee shall ensure that equipment through which spirituous liquor is dispensed is accurately labeled with the brand, grade, or class of spirituous liquor, including wine and beer, dispensed and that nothing on the equipment label directly or indirectly misleads the public regarding the spirituous liquor dispensed, sold, or used.
- B.** Except as provided in subsection (C), a licensee shall ensure that a faucet, spigot, or other outlet from which spirituous liquor is dispensed is clearly and conspicuously labeled with the name or brand adopted by the manufacturer of the spirituous liquor being dispensed.
- C.** If a faucet, spigot, or other outlet from which spirituous liquor is dispensed is not located in the area in which the spirituous liquor is served, a licensee shall post a notice in the area in which the spirituous liquor is served that lists the names or brands adopted by the manufacturers of only the spirituous liquors served.
- D.** This Section is authorized by A.R.S. § 4-243.

R19-1-314. ~~Expired~~ Prohibited Inducement to Purchase or Consume Spirituous Liquor

- A.** Except as specified in subsection (B), an on-sale retailer shall not offer or furnish to a customer an inducement such as a gift, prize, coupon, premium, or rebate, including assumption of an excise or transaction privilege tax, if receipt of the inducement is contingent on the purchase or consumption of spirituous liquor.
- B.** A bar or beer and wine bar licensee may offer or furnish a coupon to a customer if the coupon can be used only for an off-sale purchase.
- C.** An on-sale retailer may furnish to a customer an advertising novelty of nominal value or a service that is a customary trade practice if receipt of the novelty or service is not contingent on the purchase or consumption of spirituous liquor.
- D.** This Section is authorized by A.R.S. § 4-112(B)(1).

R19-1-315. ~~Renumbered~~ Responsibilities of a Licensee that Operates a Delivery Service

- A.** A licensed retailer that operates a delivery service under A.R.S. § 4-203(J) or a licensed domestic farm winery that delivers wine under A.R.S. § 4-205.04(C)(9) shall ensure that delivery of spirituous liquor:
1. Is made only to an individual who is at least 21 years old.
 2. Is made only after an inspection of identification shows that the individual accepting delivery of the spirituous liquor is of legal drinking age.
 3. Is made only during the hours of lawful service of spirituous liquor.
 4. Is not made to an intoxicated or disorderly individual, and
 5. Is not made to the licensed premises of a licensed retailer.
- B.** A licensed retailer that operates a delivery service under A.R.S. § 4-203(J) or a licensed domestic farm winery that delivers wine under A.R.S. § 4-205.04(C)(9) shall refuse to complete a delivery if the licensee believes the delivery may constitute a violation of A.R.S. Title 4 or this Chapter.
- C.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(d), 4-203(J) and (M), and 4-205.04(C)(9) and (D).

R19-1-316. ~~Repealed~~ Responsibilities of a Liquor Store or Beer and Wine Store Licensee

- A.** Except for a broken package, as defined at A.R.S. § 4-101, used in sampling conducted under A.R.S. § 4-206.01(J), 4-243(B)(3) or 4-244.04, a liquor store or beer and wine store licensee shall not have a broken package of spirituous liquor

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on the licensed premises.

- B.** This Section is authorized by A.R.S. § 4-244(19).

R19-1-317. Responsibilities of a Hotel-Motel or Restaurant Licensee

- A.** If a hotel-motel or restaurant licensee ceases to provide complete restaurant services before 10:00 p.m., the licensee shall cease to sell spirituous liquor at the same time that the licensee ceases to provide complete restaurant services.
- B.** If a hotel-motel or restaurant licensee provides complete restaurant services until at least 10:00 p.m., the licensee may continue to sell spirituous liquor during the hours allowed by law.
- C.** If a hotel-motel or restaurant licensee refuses to serve a meal requested before 10:00 p.m. and continues to serve spirituous liquor, the Department shall assume that the hotel-motel or restaurant licensee has ceased to operate as a restaurant and has the primary purpose of selling or dispensing spirituous liquor for consumption.
- D.** In the event of an audit to determine whether a hotel-motel or restaurant licensee meets the standard at A.R.S. § 4-205.02(H), the licensee shall submit records that enable the Department to determine the amount of gross revenue that the licensee derives from the sale of food and from the sale of spirituous liquor. If the Department is unable to determine the amount of gross revenue attributed to the sale of food, the Department shall assume that the licensee does not meet the standard at A.R.S. § 4-205.02(H).
- E.** To ensure that the Department is able to determine the amount of gross revenue derived from the sale of food and from the sale of spirituous liquor, a hotel-motel or restaurant licensee shall maintain the majority of the following documents in the following order for the time specified in R19-1-501:
1. Vendor invoices. Sorted by vendor by year;
 2. Inventory records; financial statements; general ledger; sales journals or schedules; cash receipts or disbursement journals; and bank statements. Sorted by month by year;
 3. Daily sales report, guest checks, and cash register journal. Segregated by the sale of food and the sale of spirituous liquor and sorted by day by month by year;
 4. Bank deposit slips. Sorted by day by month by year and maintained with the daily sales report, guest checks, and cash register journal;
 5. Transaction privilege tax returns. Sorted by month by year;
 6. Income tax returns. Sorted by year; and
 7. Payroll records. Sorted by pay period by year.
- F.** If a licensee holds multiple licenses for business premises, one of which is for a hotel-motel or restaurant, the licensee shall ensure that records for purchases and sales for the hotel-motel or restaurant are maintained and accounted for separate from records for purchases and sales for the other license on the same premises.
- G.** This Section is authorized by A.R.S. §§ 4-205.01 and 4-205.02.

R19-1-318. Responsibilities of a Special Event Licensee

- A.** If a special event occurs at an otherwise unlicensed location, the special event licensee shall conduct all dispensing, serving, and selling of spirituous liquor;
- B.** If a special event occurs at the licensed premises of a licensed retailer, the special event licensee shall ensure that one of the following occurs during the special event:
1. The licensed retailer places the license in non-use status and ceases to sell spirituous liquor and the special event licensee dispenses and serves spirituous liquor and ensures that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 2. The licensed retailer dispenses and serves all spirituous liquor under the licensed retailer's license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 3. The licensed retailer dispenses and serves all spirituous liquor under the special event license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased by or donated to the special event licensee. Both the licensed retailer and special event licensee shall ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; or
 4. The licensed premises of the licensed retailer are divided into two areas as follows:
 - a. In the first area, the licensed retailer shall dispense and serve spirituous liquor that is purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; and
 - b. In the second area, the special event licensee shall dispense and serve spirituous liquor purchased by or donated to the special event licensee and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter.
- C.** If a special event involving sampling of spirituous liquor occurs at the licensed premises of a licensed retailer, the special event licensee shall comply with the procedures in A.R.S. § 4-243(B).
- D.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(b) and 4-203.02(E).

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R19-1-319. Commercial Coercion or Bribery Prohibited

- A.** A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler shall not directly or indirectly or through an affiliate engage in any of the following activities unless specifically authorized under A.R.S. Title 4 or this Chapter:
- 1.** Furnishing, giving, renting, lending, or selling to a licensed retailer an article of primary utilitarian value in the conduct of the business;
 - 2.** Selling food or food products to a licensed retailer at less than the cost that the producer or wholesaler paid for the food or food products;
 - 3.** Selling non-alcoholic malt beverage, non-alcoholic wine, or other non-alcoholic beverage or cocktail mixer to a licensed retailer at less than the cost that the producer or wholesaler paid for the non-alcoholic malt beverage, non-alcoholic wine, or cocktail mixer;
 - 4.** Extending credit or furnishing financing to a licensed retailer through the licensed retailer's purchase of spirituous liquor or other products;
 - 5.** Providing a service to a licensed retailer, including stocking, resetting, or pricing merchandise;
 - 6.** Paying or crediting a licensed retailer for a promotion, advertising, display, public relations effort, or distribution service;
 - 7.** Sharing with a licensed retailer the cost of a promotion or advertising through any medium;
 - 8.** Guaranteeing a loan to or repayment of a financial obligation of a licensed retailer;
 - 9.** Providing financial assistance to a licensed retailer;
 - 10.** Engaging in a practice that requires a licensed retailer to take and dispose of a quota of spirituous liquor;
 - 11.** Offering or giving a meal, local ground transportation, or event ticket to a licensed retailer unless the item is deductible as a business entertainment expense under the Internal Revenue Code;
 - 12.** Offering a product to an on-sale licensee at a price not available to all on-sale licensees. A price based on the volume delivered within a 24-hour period is permitted if the volume-based price is available to all on-sale licensees; or
 - 13.** Offering a product to an off-sale licensee at a price not available to all off-sale licensees. A price based on the volume delivered within a 24-hour period is permitted if the volume-based price is available to all off-sale licensees.
- B.** A licensed retailer shall not require that a producer or wholesaler provide stocking or resetting services as a condition for being allocated shelf, cold box, or product display space.
- C.** A licensed retailer shall not solicit from a distiller, vintner, brewer, rectified, blender, or other producer or wholesaler any activity outlined in subsections (A)(1) through (A)(13) unless specifically authorized under A.R.S. Title 4 or this Chapter.
- D.** This Section is authorized by A.R.S. § 4-243(A).

R19-1-322. Responsibilities of a Registered Retail Agent

- A.** A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall provide a licensee that enters into a cooperative-purchase agreement with the registered retail agent a copy of the cooperative-purchase agreement. The licensee shall make the copy of the cooperative-purchase agreement available for inspection on request by the Department or a peace officer.
- B.** A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall:
- 1.** Display the Certificate of Registration obtained from the Department on request by the Department, a peace officer, or a licensee;
 - 2.** Place all cooperative-purchase orders with a wholesaler;
 - 3.** Pay the wholesaler for all cooperative-purchase orders;
 - 4.** Not attempt to exchange merchandise after it is delivered by the wholesaler but may request that a delivery error be corrected if the error is recognized at the time of delivery and documented;
 - 5.** Provide each licensee under subsection (A) with a copy of the master invoice prepared by the wholesaler from which a cooperative purchase is made; and
 - 6.** Charge each licensee under subsection (A) the price listed on the master invoice prepared by the wholesaler for spirituous liquor delivered to the licensee.
- C.** A retail agent registered under A.R.S. § 4-222 and R19-1-203 may charge a licensee with which the registered retail agent has a cooperative-purchase agreement a fee for services provided to the licensee.
- D.** This Section is authorized by A.R.S. § 4-222.

R19-1-323. Underage Individuals on Licensed Premises

- A.** An individual under the legal drinking age may be on the licensed premises of an on-sale retailer under the conditions established in A.R.S. § 4-244(22).
- B.** Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
- 1.** The licensed premises have an occupancy limit of at least 1,000 as determined by the fire marshal;
 - 2.** The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts;
 - 3.** The on-sale retailer ensures that spirituous liquor is sold only to individuals who are of the legal drinking age; and
 - 4.** The on-sale retailer implements security measures necessary to ensure that an individual under the legal drinking age does not purchase, possess, or consume spirituous liquor on the licensed premises.

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- C.** Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
1. The licensed premises have an occupancy limit less than 1,000 as determined by the fire marshal;
 2. The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts; and
 3. The on-sale retailer establishes a physical barrier that prevents an underage individual from:
 - a. Entering a portion of the licensed premises where spirituous liquor is sold, possessed, or served; and
 - b. Receiving, purchasing, possessing, or consuming spirituous liquor in that portion of the licensed premises.
- D.** This Section is authorized by A.R.S. § 4-210(M) and 4-244(22).

R19-1-325. Display of Warning Sign Regarding Consumption of Alcohol; Posting Notice Regarding Firearms

- A.** As prescribed under A.R.S. § 4-261, a licensed retailer shall post one or more warning signs, which are available without charge from the Department, regarding consumption of alcohol during pregnancy.
- B.** An on-sale retailer that wishes to prohibit possession of a weapon on the licensed premises shall post the notice described in A.R.S. § 4-229, which is available without charge from the Department.:
1. In a conspicuous location accessible to the general public, and
 2. Immediately adjacent to the license posted as required under A.R.S. § 4-262 and R19-1-301.
- C.** This Section is authorized by A.R.S. §§ 4-229, 4-261 and 4-262.

R19-1-326. Tapping Equipment

- A.** A wholesaler may furnish, install, and maintain tapping equipment for a licensed retailer for use with all spirituous liquor. The wholesaler shall maintain ownership of the tapping equipment that is provided free.
- B.** A wholesaler that sells tapping equipment listed in subsection (C) to a licensed retailer shall maintain a written record of the name and address of the licensed retailer to which the tapping equipment is sold, the equipment sold, and an invoice indicating payment was made. The wholesaler shall make these records available to the Department upon request.
- C.** A wholesaler may only sell the following items to a licensed retailer for cash at the market value for the items:
1. CO₂ or other dispensing gas,
 2. CO₂ or other dispensing gas regulator,
 3. CO₂ or other dispensing gas filter,
 4. Faucet or complete faucet standard,
 5. Shank or bent tube,
 6. Air distributor,
 7. Blower assembly,
 8. Switch,
 9. Drip pan,
 10. P.V.C. pipe,
 11. Sanitizing materials,
 12. Backflow device,
 13. Coupling gasket,
 14. Beer pump,
 15. Tower,
 16. Trunk line, and
 17. Another item necessary to prepare and maintain a tapping-equipment system in proper operating condition.
- D.** A wholesaler may replace at no charge to a licensed retailer the following items:
1. Bonnet washer,
 2. Friction ring,
 3. Valve stem,
 4. Hardware, unions, clamps, air tees, and screws;
 5. Tapping devices, including tower heads; and
 6. Single air and beer lines.
- E.** A wholesaler may clean a tapping-equipment system for a licensed retailer at no charge to the licensed retailer.
- F.** This Section is authorized by A.R.S. § 4-243(A)(4).

R19-1-327. Domestic Farm Winery Sampling

- A.** A licensed domestic farm winery that conducts sampling of the product of the licensed domestic farm winery on the premises of an off-sale retailer or a retailer with off-sale privileges, as allowed by A.R.S. § 4-244.04, shall ensure that:
1. No more than six ounces of the product of the licensed domestic farm winery is served to each consumer each day,
 2. An employee of the licensed domestic farm winery serves or supervises the serving of the product of the licensed domestic farm winery, and
 3. There is no violation of A.R.S. Title 4 or this Chapter.
- B.** As provided in A. R. S. § 4-205.04(C)(2), a licensed domestic farm winery may provide samples of the product of the licensed domestic farm winery on the premises of the domestic farm winery.

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C. This Section is authorized by A.R.S. § 4-244.04.

ARTICLE 4. REQUIRED NOTICES TO DEPARTMENT

R19-1-401. Notice of License Surrender or Application Withdrawal

- A.** A licensee that intends to surrender a license that is not a quota license or an applicant that intends to withdraw an application shall submit to the Department a file deactivation form prescribed by the Department.
- B.** The Department shall deem a license surrendered if all of the following apply:
1. The licensed premises are vacant during normal operating hours for at least 30 consecutive days;
 2. The licensee fails to notify the Department of the licensee's intention to suspend the business authorized by the license, as required under A.R.S. § 4-203;
 3. The Department is unable to contact the licensee using information available in the Department's records; and
 4. The individual who informs the Department that the licensee has abandoned the license submits to the Department:
 - a. The license, if available; and
 - b. A signed and notarized statement indicating that to the best of the individual's knowledge, the licensed premises have been vacant during normal operating hours for at least 30 consecutive days and the licensee has abandoned the license and licensed premises.
- C.** The Department shall deny surrender of a license if the Department determines that:
1. It has notice that the licensee is delinquent in paying taxes to the state or a political subdivision,
 2. A complaint is pending against the licensee alleging violation of A.R.S. Title 4 or this Chapter,
 3. Ownership of the license is contested,
 4. Civil proceedings involving the license are pending before any court, or
 5. A hearing is pending before the Board.
- D.** This Section is authorized by A.R.S. §§ 4-203, 4-203.01, 4-205.02 and 4-210(I).

R19-1-402. Registered Retail Agent: Notice of Change in Cooperative-purchase Agreement; List of Cooperative Members

- A.** As required under A.R.S. § 4-222(A), a retail agent registered under R19-1-203 shall provide written notice to the Department within 10 days after a licensee with whom the registered retail agent has a cooperative-purchase agreement terminates the registered retail agent's authority. The registered retail agent shall ensure that the notice identifies the licensee terminating the cooperative-purchase agreement and shall send a copy of the notice to all affected wholesalers.
- B.** A retail agent registered under R19-1-203 shall submit to the Department a copy of a new cooperative purchase agreement between the registered retail agent and another licensee within 10 days after entering into the cooperative-purchase agreement.
- C.** In addition to submitting a copy of each cooperative-purchase agreement to the Department, a retail agent registered under R19-1-203 shall submit to the Department a list that includes the following information regarding each licensee with which the registered retail agent has a cooperative-purchase agreement:
1. Name of licensee,
 2. Address of licensed premises, and
 3. License numbers of each licensee with which the registered retail agent has a cooperative-purchase agreement.
- D.** A registered retail agent shall report to the Department a change in any of the information submitted under subsection (C) within 10 days of the change.
- E.** This Section is authorized by A.R.S. § 4-222.

R19-1-403. Hotel-Motel or Restaurant Licensee: Notice of Change to Restaurant Facility

- A.** Under A.R.S. § 4-205.01(E) or 4-205.02(F), a hotel-motel or restaurant licensee that intends to alter the seating capacity or dimensions of a restaurant facility shall provide advance notice to the Department.
- B.** To provide the notice required under subsection (A), a hotel-motel or restaurant licensee shall complete and submit to the Department the form prescribed by the Department.
- C.** This Section is authorized by A.R.S. § 4-205.02(F).

R19-1-404. Notice of Sampling on a Licensed Off-sale Retail Premises

- A.** A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler that intends to conduct a sampling under A.R.S. § 4-243(B)(3) or 4-244.04 on the licensed premises of a licensed off-sale retailer shall submit a Store Sampling Notice, which is a form available from the Department, to the Department at least 10 days before the sampling.
- B.** This Section is authorized by A.R.S. §§ 4-243(B)(3)(b) and 4-244.04.

R19-1-405. Notice of Change in Status: Active or Nonuse

- A.** A licensee that ceases to manufacture, sell, or deal in spirituous liquor for 30 consecutive days shall submit notice to the Department, on a form that is available from the Department.
- B.** Except as provided in subsection (D), a licensee that puts a license on nonuse status by complying with subsection (A) may put the license on active status by submitting notice to the Department, on a form that is available from the Department.

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ment.

- C. If a license is on nonuse status for more than five months, the licensee shall pay the surcharge prescribed at A.R.S. § 4-203(G) when the license is returned to active status by complying with subsection (B).
- D. Under A.R.S. § 4-203(G), if a license is on nonuse status for 36 months, the license automatically reverts to the state unless extended by the Director for good cause.
- E. This Section is authorized by A.R.S. § 4-203.

R19-1-406. Notice of Change in Manager

- A. As required under A.R.S. § 4-202(C), a licensee shall provide notice to the Department and file a manager's agreement within 30 days after a change in manager.
- B. If a licensee is designated as the manager, the licensee shall comply with subsection (A) when the licensee will be away from the licensed premises, while under normal operating conditions, for more than 30 days.
- C. This Section is authorized by A.R.S. § 4-202(C).

R19-1-407. Notice of Legal or Equitable Interest

- A. To enable the Department to fulfill its responsibility under A.R.S. § 4-112(B)(3), a person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department a statement of the interest. A person filing a statement of legal or equitable interest shall use a form that is available from the Department.
- B. A person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department an amended statement of the interest by complying with subsection (A) when:
 - 1. Any of the information provided in a previous statement of interest changes, or
 - 2. The person's legal or equitable interest terminates.
- C. To enable the Department to fulfill its responsibility under A.R.S. § 4-112(B)(3), the Department shall periodically request that the holders of a legal or equitable interest in a license verify in writing to the Director that the statement on file with the Department is correct and accurate. If the holder of a legal or equitable interest in a license fails to respond within 30 days to the Department's request for verification of interest, the Department shall deem the interest terminated.
- D. The Department shall provide notice to a person that files a statement of interest under subsection (A) when there is a disciplinary or compliance action or transfer affecting the license in which the person has an interest and shall allow the person to participate in any proceeding regarding the license.
- E. This Section is authorized by A.R.S. § 4-112(B)(3).

R19-1-408. Notice of Change in Business Name, Address, E-mail, or Telephone Number

- A. A licensee shall not change the name of the business as specified on the license issued by the Department without first providing notice, using a form that is available from the Department.
- B. The Department shall communicate with a licensee using the business name, U.S. Postal Service address on file with the Department, and e-mail, when provided. To ensure timely communication from the Department, a licensee shall provide the Department with current contact information for the licensee. When contact information for a licensee changes, the licensee shall submit a notice, using a form that is available from the Department.
- C. If the name or U.S. Postal Service address of a business changes and notice is provided under subsection (A) or (B), the Department shall issue a replacement license that reflects the current name and U.S. Postal Service address of the business.
- D. This Section is authorized by A.R.S. § 4-112(B)(1)(a).

ARTICLE 5. REQUIRED RECORDS AND REPORTS

R19-1-501. General Recordkeeping

- A. A licensee may maintain any record required under A.R.S. Title 4 or this Chapter in electronic form so long as the licensee is readily able to access and produce a paper copy of the electronic record.
- B. A licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of spirituous alcohol for two years.
- C. A hotel-motel or restaurant licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of food in the manner specified in R19-1-317 for two years.
- D. A licensee shall make the invoices, records, bills, and other papers and documents maintained under subsections (B) and (C) available, upon request, to the Department for examination or audit. During an examination or audit and upon request, the licensee shall provide valid identification to the Department.
- E. This Section is authorized by A.R.S. §§ 4-210(A)(7), 4-119, and 4-241(K).

R19-1-502. On-sale Retail Personnel Records

- A. As required by A.R.S. § 4-119, an on-sale retail licensee shall maintain a record of every employee of the business that includes the following information about the employee:
 - 1. Full legal name.
 - 2. Residential address.

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3. Date of birth, and
4. Description of the employee's responsibilities.
- B.** A licensee shall maintain the records required under subsection (A) for two years after an individual ceases to be an employee of the business.
- C.** A licensee shall make the records maintained under subsection (A) available, upon request, to the Department for examination.
- D.** This Section is authorized by A.R.S. § 4-119.

R19-1-503. Records Regarding Cooperative Purchases

- A.** A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall maintain a copy of every cooperative-purchase agreement between the registered retail agent and another licensee for two years after termination of the cooperative-purchase agreement.
- B.** A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall maintain in accordance with R19-1-501:
 1. A copy of a cooperative purchase order placed with a wholesaler.
 2. A copy of a cooperative-purchase invoice provided by a wholesaler, and
 3. A record of the following regarding each cooperative member:
 - a. The kind and quantity of spirituous liquor ordered and delivered.
 - b. Monies received from the cooperative member, and
 - c. The date on and location at which spirituous liquor is delivered to the cooperative member.
- C.** A wholesaler that fills a cooperative-purchase order submitted by a retail agent registered under A.R.S. § 4-222 and R19-1-203 shall prepare and provide to the registered retail agent a master invoice of the cooperative purchase that shows the spirituous liquor purchased by each cooperative member and the amount of the discount provided for the cooperative purchase.
- D.** This Section is authorized by A.R.S. § 4-222.

R19-1-504. Record of Delivery of Spirituous Liquor

- A.** A retail licensee having off-sale privileges or licensed domestic farm winery that delivers spirituous liquor, as authorized by A.R.S. § 4-203(J) or 4-205.04(C)(9) and R19-1-315, shall complete a record of each delivery at the time of delivery. The licensee shall ensure that the record provides the following information:
 1. Name of licensee making the delivery.
 2. Address of licensee making the delivery.
 3. License number.
 4. Date and time of delivery.
 5. Address at which delivery is made.
 6. Type and brand of spirituous liquor delivered, and
 7. Printed name and signature of the individual making the delivery.
- B.** In addition to the information required under subsection (A), a retail licensee having off-sale privileges that delivers spirituous liquor, as authorized by A.R.S. § 4-203(J), shall obtain the following information about the individual accepting delivery of the spirituous liquor:
 1. Name.
 2. Date of birth.
 3. Type of and number on the identification used to verify the individual's date of birth, and
 4. The signature of the individual accepting delivery. The retail licensee making delivery may use an electronic signature system to comply with this subsection.
- C.** A licensed domestic farm winery that delivers spirituous liquor, as authorized by A.R.S. § 4-205.04(C)(9), may rely on an electronic signature system operated by the United Parcel Service or Federal Express to comply with the requirements in subsection (A).
- D.** A licensed retailer that delivers spirituous liquor under A.R.S. § 4-203.04(H) or a direct shipment licensee that ships wine under A.R.S. § 4-203.04(J) may rely on an electronic signature system operated by the United Parcel Service or Federal Express.
- E.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(d), 4-203(J) and (M), 4-203.04(H) and (J), 4-205.04(C)(9) and (D).

R19-1-505. Report of Act of Violence

- A.** As required under A.R.S. § 4-244(37), a licensee shall report an act of violence that occurs on the licensed premises.
- B.** A licensee shall report an act of violence that occurs on property immediately adjacent to the licensed premises if the act of violence involves a customer who is entering or leaving the licensed premises and if the licensee knew or reasonably should have known of the act of violence.
- C.** A licensee shall submit the report required under subsection (A) to the Department or a law enforcement agency. A licensee shall submit the report required under subsection (B) to the Department.
- D.** A licensee shall submit the report required under subsection (A) or (B) within seven days after the act of violence occurs.
- E.** A licensee that submits a report under subsection (A) or (B) to the Department shall use a form that is available from the

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Department and provide the following information to the best of the licensee's knowledge:

1. Name of licensee or licensee's agent;
2. License number;
3. Name of business;
4. Address of licensed premises;
5. Date of the report;
6. Date and time of the incident being reported;
7. A statement whether the police were summoned and if so:
 - a. Name of the police jurisdiction summoned;
 - b. Name of the individual who placed the call to the police;
 - c. Police report number, and
 - d. A statement whether an arrest was made;
8. A statement whether emergency services were summoned and if so, the name of the individual who placed the call for emergency services;
9. Names or description of participants in the incident;
10. Names of individuals injured in the incident and a description of the injury;
11. Detailed description of the incident; and
12. Name, title, and signature of the individual preparing the report affirming that the information provided is true and accurate to the best of the individual's knowledge.

F. This Section is authorized by A.R.S. § 4-244(37).

ARTICLE 6. VIOLATIONS; HEARINGS; DISCIPLINE

R19-1-601. Appeals and Hearings

- A. Under A.R.S. § 4-210.02(A), a decision of the Director, except as provided under A.R.S. § 4-203.01(E), is not final until it is appealed to and ruled on by the Board or until the time for appeal expires.
- B. As required by A.R.S. § 4-210(H), the Department, Board, or a panel of the Board established under A.R.S. § 4-111(D) shall ensure that all hearings are conducted according to the procedures at A.R.S. Title 41, Chapter 6, Article 10.
- C. This Section is authorized by A.R.S. § 4-210(H).

R19-1-602. Actions During License Suspension

- A. If the Director suspends a license issued under A.R.S. Title 4 and this Chapter, the licensee:
 1. Shall not take any action on or about the business premises for which a license is required under A.R.S. Title 4 or this Chapter, and
 2. Shall prominently display the notice of suspension on the business premises during the suspension.
- B. This Section is authorized by A.R.S. § 4-244(1)

R19-1-603. Seizure of Spirituous Liquor

- A. If a peace officer has probable cause to believe that a spirituous liquor is being or is intended to be used in a manner that is inconsistent with a provision of A.R.S. Title 4 or this Chapter, the peace officer shall seize the spirituous liquor.
- B. This Section is authorized by A.R.S. § 4-244.05(F).

R19-1-604. Closure Due to Violence

- A. If the Director determines that an act of violence is apt to occur at a licensed premises and that action is needed to protect the public health, safety, or welfare, the Director shall order that:
 1. The licensee closes the doors of the licensed premises to the public;
 2. No spirituous liquor be sold or served to any individual on the licensed premises; and
 3. Only the licensee, employees of the licensee, and peace officers are allowed on the licensed premises.
- B. This Section is authorized by A.R.S. § 4-210.

ARTICLE 7. STATE LIQUOR BOARD

R19-1-701. Election of Officers

- A. The Board shall elect a chairperson and vice chairperson in February of each year.
- B. If a vacancy occurs in the chairperson or vice chairperson office, the Board shall hold an election for the vacant office at its next scheduled meeting.
- C. This Section is authorized by A.R.S. § 4-111(C).

R19-1-702. Determining Whether to Grant a License for a Certain Location

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
 1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease

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property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;
3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
5. Residential and commercial population density within one mile of the proposed premises;
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
7. Effect on vehicular traffic within one mile of the proposed premises;
8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

R19-1-703. Rehearing or Review of a Decision

- A.** As permitted under A.R.S. § 41-1092.09, a party may file with the Board a motion for rehearing or review of a decision issued by the Board.
- B.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- C.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Director or Board, Department staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (C). The Board shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E.** Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of the decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in a motion. The Board shall specify with particularity the grounds on which a rehearing or review is granted under this subsection.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for five additional days for good cause or by written stipulation of the parties. Reply affidavits may be permitted.
- G.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.
- H.** This Section is authorized by A.R.S. §§ 4-210.02 and 41-1092.09.

R19-1-704. Submitting Documents to the Board

- A.** To facilitate the Board's review of documents submitted to it, a party shall submit documents to the Board in printed form and:
1. In an electronic format directed by the Board, or
 2. By means of a removable data-storage device such as a compact disc or flash drive.
- B.** To provide the Board with time to consider adequately documents requiring its action, the following deadlines apply:
1. An applicant, local governing body, or aggrieved party that wishes to submit information regarding an application shall submit the information at least 15 calendar days before the meeting at which the Board will consider the appli-

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cation:

2. An applicant, local governing body, or aggrieved party that wishes to rebut information submitted under subsection (B)(1) shall submit the rebuttal information within five calendar days before the meeting at which the Board will consider the application; and
 3. An appellant shall submit a brief at least 21 calendar days before the meeting at which the Board will consider the appeal.
- C.** A party who is unable to submit documents in an electronic format or by means of a removable data storage device may ask the Board for an exemption from the requirement in subsection (A).
- D.** This Section is authorized by A.R.S. §§ 4-112(A)(2) and 4-201(E).

R19-1-705. Judicial Review

- A.** A party may file a complaint for judicial review of a final decision of the Board under A.R.S. § 12-901 et seq.
- B.** A party that files a complaint for judicial review of a final decision of the Board shall serve a copy of the complaint for judicial review on the Director at the Department's office in Phoenix, Arizona.
- C.** This Section is authorized by A.R.S. §§ 4-211 and 12-901 et seq.